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# THE MEDICO-LEGAL JOURNAL.

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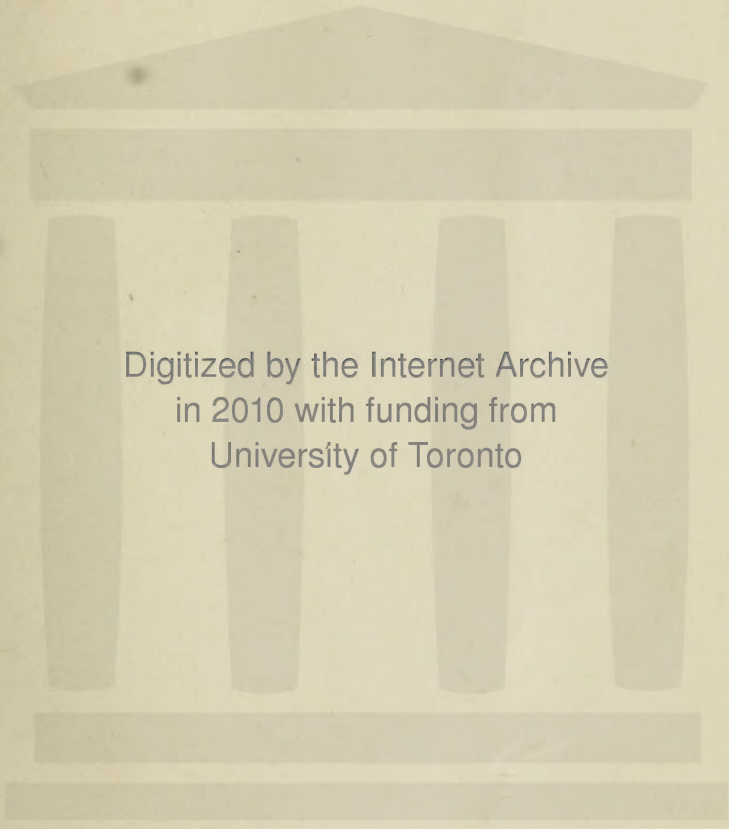
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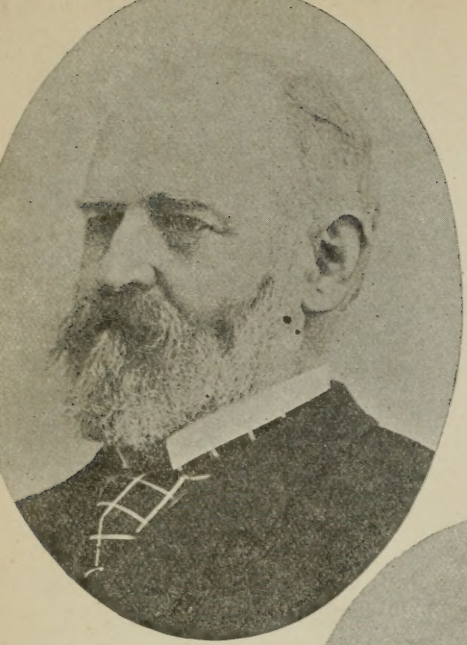

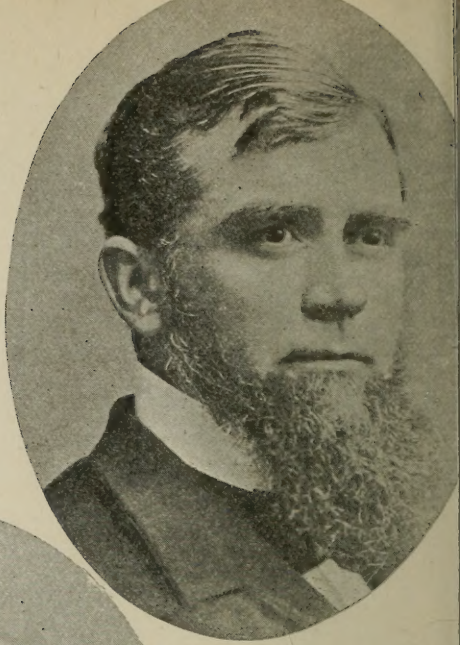

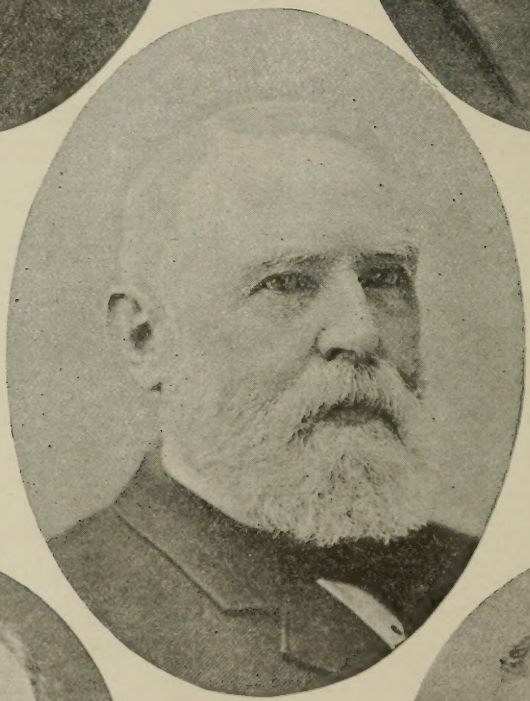

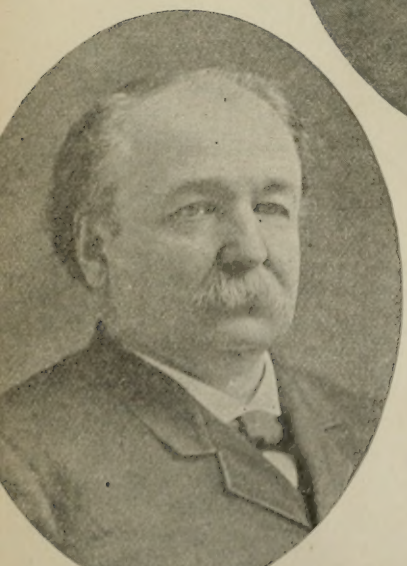

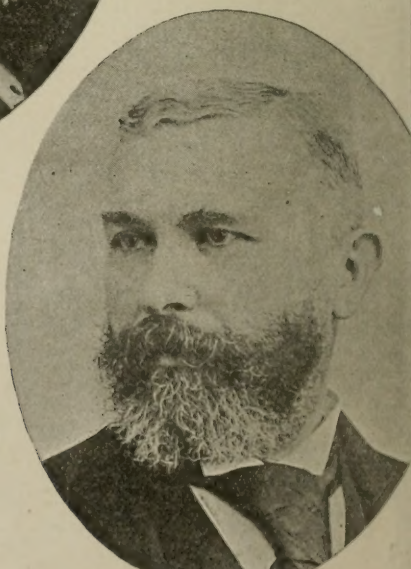

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## *IS CRIMINAL ANTHROPOLOGY A SCIENCE?**

By William W. Ireland, M. D., Preston Pans, Edinburgh, Scotland.

The habitual criminal has in all civilized times attracted to himself considerable amount of disrespectful attention, principally from those who were engaged in the preparation and administration of the law ; but of late years the study of this variety of human frailty has been taken up by medical men, alienists, and anthropologists who have used in their inquiries the scientific methods with which they were already accustomed.

If criminal anthropology be not a new branch of knowledge, at least it is characterized by a new way of presenting knowledge that is every year attracting more and more attention. There are already two separate reviews entirely devoted to this subject, one in Italian,† and the other in French‡, besides numerous papers appear in periodicals dedicated to insanity or general medicine, and sketches of the requisite shallowness have even appeared in popular magazines. The number of books on this subject which have appeared in different European languages would fill a large book-case. The professors of the new science have held several collective scientific conferences, and have attracted the notice of the general public by the boldness of their claims and the open contempt with which they treat the time hallowed ways of keeping under malefactors. As one of the most eminent of the new school, Professor Benedikt of Vienna, remarked in my hearing: "No

* Read before the Medico-Legal Society, May Meeting, 1891.

† Archivio di Psichiatrica Scienze Penale, ed Antropologia.

‡ Archives de l'Anthropologie Criminelle et des Sciences Penales, Paris.

class of men except clergymen have talked so much nonsense about criminals as the lawyers." While thus bold and aggressive the philosophers of the new school are not entirely in accord with one another, nevertheless, it is not difficult to make out the prevailing drift of their opinions. In order, however, to have some holding anchor, I shall take Professor Cesare Lombroso of Turin as the representative of the criminal anthropology of the day. His view are stated at length in two works, *L'Uomo di Genio,* and *L'Uomo Delinquente*, and there is a shorter *resumé* of them in a little book entitled *L'Anthropologie Criminelle et ses Recents Progrès*, by the same author, Paris, 1890.

What is distinctive of Lombroso's method of inquiry is that he goes to study the criminal as an anatomist and anthropologist might do. Lombroso argues that an attentive scrutiny of the physical organization of the habitual criminal proves him to belong to a degraded type of humanity, the product of hereditary degeneration. The peculiarities observed are not constant; but certain traits or deformities are repeated more often than amongst normal beings. By arranging these traits in the mind the type is conceived. To use the expression of Goethe, the type is the abstract and general image which we receive from the observation of what is common and what is different. The definition of this type materially varies from our definition of a species. In describing a species the naturalist or botanist describes a number of characters which are common to every individual of the species, such as the number of different parts of the flower, their form and arrangement in reference to one another, the structure of the seed vessel, and of the seed, the shape and arrangement of the leaves, the nature of the stem and of the root.

These characteristics are found in every individual of the species, so that a botanist can without fail find out the name of one particular plant by the help of a descriptive Flora amongst the tens of thousands of other plants. Some organs vary more than others, for example, the same stress is not laid on the colors of the flowers as on the shape and arrangement of the floral envelopes, and the lower leaves sometimes differ in their shape from the upper ones. Flowers that vary within certain limits are said to sport; such varieties, if frequently noted in wild plants, are described in most Botanical Floras.

Lombroso, of course, treats the criminal as only a variety in the *genus homo*, but his typical criminal is not characterized by any unvarying characteristics so that one could lay his hand on the shoulder of an unknown man and say: "This is a criminal." Certain peculiarities are found to be commoner with incorrigible malefactors than with normal individuals, and the occurrence of a number of these peculiarities make him approach nearer the criminal type. Lombroso acknowledges that his type fails completely in 60 per cent. of his criminals, and in a few cases two individuals have most of the marks without being malefactors. One case has even been mentioned by Marro of a man who, though he wore all the stigmata of criminality, still preserved an unblemished character. Perhaps this unfortunate individual felt that he had little chance of carrying on a dishonest career as from his physiognomy he would be suspected at once. Nevertheless, certain bodily peculiarities are found to be commoner with criminals than with normal individuals, and the occurrence of a greater number of these peculiarities make him approach nearer the type. The principal of these

stigmata are smallness of the head, a symmetry or abnormal forms of the skull, prominence of the superciliary ridges, unequal size of the orbits, teeth irregularly placed, abnormal forms of the palate, and increased size of the lower jaw. There is also a great variety of irregularities in the shape and position of the external ear. The beard is often scanty. Marro, who examined 507 male criminals and 35 female criminals in great detail, comparing them with a hundred people of undoubted good character, found that in height and weight there was no great difference; but some writers state that the stature is generally lower. Left-handedness has been found to be thrice as common with rogues as with honest men. In some cases the left hand is longer than the right, and the stride of the left leg is greater. Deformities of the hands and feet are relatively frequent. The sensibility to pain is deficent; color blindness is more frequent, and the perception of taste and smell have been proved to be less acute than with ordinary beings. These stigmata indicate deeper abnormalities of structure. Professor Benedikt showed at the International Medical Congress held in London in 1881, a collection of prepared brains, and demonstrated atyptic convolutions and sulci which, had they not been hidden during life under the opaque vault of the skull, would have helped the learned professor in saving the culpit from being treated as responsible for his actions by ignorant judges. But while we may regret that it is a loss for the poetical administration of justice that the cranium is not transparent, we ought not the less to pay regard to the outward indication which frequently accompany a brain of abnormal type.

Dr. Benedikt has made some very painstaking observations on the shapes of skulls in criminals. He lays

more stress upon the disproportionate development of the occipital region than on the receding forehead as a mark of degeneration. He regards the bilateral elevation of the sagittal suture as indicating a deep perversity of brain function : fortunately this is not a common peculiarity. It is to me difficult to see the connection between these abnormal forms of brain and skull, and a proneness to vicious and lawless action. As far as I know most of Benedikt's observations must be taken on his own authority, but indeed it is very difficult to gain an opportunity of repeating such studies as his. It is, however, matter of remark that Professor Giacomini of Turin, who has made a careful study of the human convolutions,* has refused to a limit a special type in the brains of criminals.

Peculiarities in the skeleton, such as asymmetry of the thorax and deficiency in a number of the vertebræ, have also been noticed. The type is much more decided with the males than with the females of the criminal classes. No one need doubt that Lombroso and his school have most attentively and faithfully studied the phosiognomy of the criminal, and no one who has visited a large prison will be disposed to deny that there is a prevailing caste of countenance in the tenants of the cells. Observations on the physiognomy of malefactors are as old as crime itself. An experienced detective sometimes recognizes a criminal in the street under circumstances in which he would not expect to find him. Moreover, the different classes of criminals have a different physiognomy ; one accustomed to visit jails generally picks out the thief from the house-breaker and the forger from the sheep-stealer. Much of this knowledge, depending upon minute traits of observation in-

* Varieta delle Circonvoluzeoni Cerebrali dell 'Uomo, Turin, 1881.

sensibly gathered, is incommunicable by verbal description and thus partakes more of art than of science. Such connoisseurs, too, lay more stress upon the lines which a bad life has worn on the countenance than upon fixed congenital marks. On the other hand professors of the new science of criminal anthropology treat the stigmata noted by them as indications of a weak and diseased nervous system and of a brain that works badly. Theys are mark of degeneration or correlations of growth : just as the cat with blue eyes is almost always deaf, or the man with enormous growth of hair on the face, has rarely more than two or three teeth in his jaws, so the deformities in the physical frame of the criminal proclaim his perverted brain structure and innate depravity. They treat the delinquent as one fatally born to prey upon society. He inherits from a sullied line of lawless ancestors a rooted dislike to regular work, a fondness for sensual pleasures, a proneness to cruelty with perverse cravings often sadly outraging decency, a proclivity to deceit, anger and hatred, and a general callousness to all the recognized rules and duties of morality. He is seldom troubled with remorse and will even boast of the greatness of his crimes. His vanity is large, taking perverse directions. He is fond of tattooing himself, and cultivates a flash language which has certain features of similarity in different countries. He is improvident, averse to intellectual exertion, and prone to sudden explosions of fury.

Professor Kirn * gives the following as the main conclusions of the Italian school :

1. The born criminal is the same person as the morally

* Allgemeine Zeitschrift für Psychiatrie, XLV. Band. 1 und 2 Heft, 5 und 6 Heft.

insane; both show the same bodily deficiencies and deformities, and the same deficiencies in mind and temper which lead to immoral actions. Both conditions are congenital and become worse at puberty.

2. The epileptic resembles the criminal and the moral imbecile. We find in him similar marks of degeneration and a similar mental condition, namely, extraordinary irritability, restlessness, maniacal excitement and the tendency to steal. In criminals, in those morally insane, and in the epileptic, there is a tendency to groundless hatred and want of self-control, so that they are liable to many wild impulses.

Lombroso and writers of his school, who are mostly evolutionists, regard the criminal as an instance of atavism or reversion. As man has ascended on the ladder of evolution through the ape and the savage, his degeneration gives us the habitual criminal and the microcephale. Lombroso tells us that tattooing is common with criminals as with savages, and triumphantly observes, if this be not an instance of atavism, there is no atavism in science.

In the writings of criminal anthropologists one sometimes meets with invectives against the cruelty and stupidity of society in not recognizing the hereditary and incorrigible depravity of the criminal. They consider that it is unscientific to treat him as a responsible being. He is the victim of a bad organization, and, if he is to be punished at all, it should be on a scale of severity diminishing with the depth of his moral insanity. In fact the wickeder he appears to be, the less apt he is to regard punishment as a deterrent, the less he should get of it. Some of these philosophers indeed acknowledge that society has a right to protect itself from incorrigible rogues by imprisoning of even putting

them to death, but any moral indignation at their misdeeds is treated as unreasonable and practically as of no avail. Most of the writers in this new school look upon the reformation of the habitual criminal as utterly hopeless. The occasional malefactor has sometimes features of resemblance to his typical brother, but in general he is different and may be left for treatment to ordinary methods of law, and so we shall not deal with him in this paper.

After so many reproaches on the way society has misunderstood the habitual criminal one naturally expects some proposals as to how he should be dealt with ; but these do not look so useful or practical as one might have hoped. The different stigmata of crime cannot yet be utilized in our courts of justice. Lombroso, indeed, observes that some of his boldest theories have been put in practice in times not far off since MM. Valesio and Loyseau cite an edict of the Middle Ages which prescribes that in a case where two individuals fall under suspicion, torture should be applied to the ugliest of the two. Nevertheless, in our courts they now expect direct evidence of a specified offense ; we are not yet agreed that an accused person should be convicted of special offense from the appearance of his orbits, or the height of his sagittal sutures, or the retreating character of his forehead. Indeed, the utmost Lombroso would expect is that such deformities might create a presumption against the accused.

The most important proposal of the new school is that the habitual criminal should be sequestered for life, condemned to perpetual imprisonment in an asylum arranged for the purpose, kept on a wholesome diet, and made to do as much work as can be got out of him. There is no use giving him short terms of imprison-

ment, as underterred by the punishment he always returns to his crimes. The detention to which he is to be doomed will favor the extinction of his class as it will prevent him propagating his kind.

Having now given the leading ideas of Lombroso and his school I am apparently expected to give some answer to the question: Does criminal anthropology constitute a science. I should say, not yet. What we have as yet is a series of observations collected by scientific methods, and held together by a few generalizations, some of which seem to me erroneous, others to be correct. To begin with the errors, the statement that the habitual criminal is an illustration of atavism or reversion seems to me quite unproved. As Dr. Lutz has well observed, if a creature had progressed from apehood into an animal like the burglar or the pickpocket, he would never have advanced any farther. Is it to be seriously maintained that the thieves in the slums of our great cities are the analogues of the free savages who roam in the forests or prairies of America or Africa, or of our own ancestors, the ancient Britons or Germans? Would the burglar, the forger, and the pickpocket fill the part of the Hottentot or the red Indian? Or would the latter if adopted amonst our criminal population take deftly to thieving or burglary? Does a careful examination of the organisms of savages reveal the same peculiarities of form and function as are found in the criminals of a civilized Europe. Lombroso finds features common to both in the scanty hair, the light bodily weight, the small cranial capacity, the retreating forehead, the large temporal sinuses, the early synostosis of the sutures, the enormous development of the under jaw, the inequality of the orbits, the unclean skin, the large deformed ears, the closes resemblance between the two

sexes, the comparative insensibility to pain, the callousness and carelessness of disposition, the courage combined with cowardice or idleness, boasting and superstition and the fondness for metaphor and onomatopoia, and the taste for tattooing.

Some of these peculiarities are racial, such as the scanty beard, which is common to the Mongolian, whether civilized or not; we certainly do not find scanty beards or hair in the Caledonians or Germans described by Tacitus. In other savage races so far from finding the stigmata of criminals, we find the reverse, *e. g.*, small brains are not common to all savage races. The saddle-shaped palate and the irregularly placed and deformed teeth common in the criminal class are not noticed in savage races. And what about the deficiencies in the senses? It is generally believed that the senses in savages are extremely keen. As for Lombroso's statement that in the microcephale we have a phenomenon both of atavism and pathology, any one who chooses to inquire into the subject may find this to be erroneous. To read the pages in which Darwin tries to prove that the microcephale in many respects resembles the ape excites in me distrust of his whole work. He tries to suppost the statement by quoting the observations of Vogt and others, who too hastily adopted this view, entirely passing over the crushing replies which were presented in the investigation of Graticlet, Virchow, Bischoff, Marshall, Aeby and others. The brain of the microcephale is of no special type, nor does it resemble that of the ape save in its small size. The mental character and proclivities of the microcephale and the monkey are quiet different.

The delinquent, as described by Lombroso, is a pathological product, the result of the corruption of a complex

civilization. The conditions necessary to call him into existence are not found amongst savages. The habitual criminal, who requires a civilized society upon which to prey, nevertheless resembles the savage in his dislike to regular continuous work. As regards tattooing, it seems strange that men endowed with reason should so disfigure themselves, but before treating this custom as the renewal of an old craving inherited from the savage ancestor, I should like to inquire whether it is not a rude fashion which has been kept up for ages amongst some classes of men. I know that tattooing is very common with sailors and fishermen, who are neither savages or criminals, and it is likely enough that it has prevailed for uncounted generations, perhaps in uninterrupted succession from the ancient Britons who painted themselves with woad.

The born delinquent belongs to the great family of the degenerated which sends so many members to our hospitals and asylums as well as to our prisons. He has many analogies with the lunatic, though the classical symptoms of insanity, such as hallucinations, delusions, involuntary movements and excessive passions are generally wanting. The criminal is not like the lunatic, at open war with his environment, he has an environment of his own to which he conforms, the morality of which is immorality, and in preying upon society he adapts himself to the changing conditions of civilization. The innate weakness and instability of his brain are, however, shown by the number of criminals who become insane. The percentage of persons who become insane in central jails is ten times higher than it is in the free population outside. In asylums, moreover, we find many lunatics who resemble criminals, and in jails we find many criminals who resemble

lunatics. The stigmata assigned to criminals are also more frequent with lunatics than with the normal population, and notably so with imbeciles. The criminal differs from what has been called the moral imbecile in this, that the moral imbecile wants the intellectual capacity which might enable him to comprehend how much he offends the laws of morality and the rules of society. There is thus in his case a serious intellectual as well as a moral deficiency, for the man who allows his immorality to be so shameless, flagrant and open as to land himself in a lunatic asylum must be deficient in the forecast of the effect of his actions. But the habitual criminal brought up in defiance of the laws of society, or rising in revolt against them can perfectly appreciate their nature and character, and use cunningly devised methods in his war against them. The same physical peculiarities or stigmata which are observed in the born delinquent are also found to be commoner in what has been called the moral imbecile than with human beings of normal character.

Lombroso has also observed that the abnormalities which he found in the craniology of delinquents accord with what he finds in epileptics. He notes the same deformities in the jaw and teeth, the same sexual precocity, proclivity to alcoholic abuse, the great agility of the limbs, color blindness and tendency to left-handedness, and above all the anomalies in the moral character. No doubt in many epileptics there is perversity in the mental and moral character. There is great irritability and impulsiveness and a forgetfulness of moral and prudential considerations which sometimes brings them within the grasp of the law, and other times lands them in an asylum. Epileptic insanity is a well recognized form, nevertheless some epileptics are well behaved and

even free from bad tember, and taking it all in all, the epileptic has a different character from the born delinquent, so that when Lombroso finds the same physical traits in both, he somewhat spoils the differentiating power of his stigmata.

An extended study of these physical peculiarities renders it clearer and clearer, that they are common to all the degenerated, to the insane, the imbecile, the neurotic as well as to the criminal. They are proofs of a deficient formative power in embryonic and infantile states, indicated by deficiencies sometimes in one part of the organism and sometimes in another and associated with deeper deficiencies in the form and tissues of the internal organs. Hence, these unfortunate beings inherit, if not a proneness to evil, a weak power of resistance to temptation, morbid cravings and an incapacity to receive the education needed to fit them for the battle of life. This incapacity is of various kinds and degrees. If their intellectual faculties are very weak they become imbeciles, if their passions or delusions lead them beyond control, they become lunatics, and if possessing more mental power and stability, through incapacity to earn their bread and through a defective education, they take to dishonest courses they are treated as criminals. It is likely that these three classes may have distinctive marks in their organisms and these may be yet discriminated, but only confusion will be created by assigning characteristics to one class which are more or less peculiar to all. While allowing for the influence of heredity, we ought not to overlook the influence of social conditions in creating and fostering crime. A varying proportion of poverty, failure, want and disappointment seems fatally to accompany the present state of competition and the fluctuations of

the market. The weakened members of society are inevitably beaten in the battle of life; and giving up hope and the heart to struggle on, they take to dishonest courses in order to provide themselves with the necessaries or the enjoyments of life. That this class should bear the marks of physical and mental degeneration is precisely what we might expect. That the children of criminals should be badly brought up seems a matter of course. The conditions in which they are reared tend to increase their worst proclivities, though I do not doubt that even with good education there would be much difficulty in teaching them to submit to the legal moral and conventional rules of civilization. It is too readily assumed that a submission to such rules is natural. In some things it may be; in others, such education as is necessary, for our present phase of civilization has to conquer or keep under what is natural, and even what is reasonable. We see the extreme difficulty which is often met with in educating ordinary children, and their tendencies to cruelty, falsehood and greediness.

Writers of the new school of criminal anthropology are fond of talking as if our criminal legislation was a failure because the same offenders again and again reappear for trial after they have served out their periods of punishment, but it must be remembered that the law actually succeeds in its aim in rendering life and property safe. If the arm of the law were powerless for a single night we should soon be sensible of the efficiency of its protection. We do not make an end of the criminal with the axe and the halter, as was done in the good but rude old times, and indeed, we take a good deal of trouble to keep him alive. But to turn him into an innocent and industrious being is an undertaking not likely to succeed if we send him back into the social state for which

he has clearly proved his unfitness. I certainly am disposed to agree with the proposal that the incorrigible delinquent had much better be kept a prisoner for life in some place of detention, whether called jail, asylum, or penal settlement. But in my opinion though many of the grown up delinquents will never reform, the younger members of the criminal class are not fatally doomed to a vicious and lawless life. Good education, proper food and plenty of work to be had, the families bearing the stigmata might recover their vigor and go on improving, and in time wear out the ancestral taint. However, if regardless of this unfitness to cope with the conditions of our too complex civilization, we keep them in the slough in which they have been pushed their degenerative tendencies will show themselves and become worse until the extinction which is the final doom of lost races.

The assumption that if the criminal class were not kept up by continual reinforcements from the degenerated in the better ranks of society it would not keep up its numbers by direct descent may perhaps be disputed, but at any rate I have no room to enlarge upon it here. All recent inquiries upon insanity and other neuroses tend to bring out strongly the great part played by heredity. The danger of allowing criminals to propagate their kind has been often pointed out, and if I do not consider the methods proposed to prevent this, it is because none of them seem feasible, as long as habitual criminals are allowed to go free during the intervals of their periods of imprisonment. It should be kept in mind that with delinquents bearing the stigmata of degeneration, there is not only a danger of their begetting their like, but of their bringing into the world a larger proportion of idiots, epileptics and lunatics.

In conclusion, I cannot forbear recording my misgiving of the consequences of all hatred of depravity from our treatment of crime. If we hold the fatalistic views of so many of the professors of the new school, it seems logical to give up the theory of responsibility and regard the born delinquent as a mere machine for doing mischief. On the other hand, are we prepared to act upon this theory even in our treatment of the habitual malefactor? After filling a large establishment with human beings, deprived of civil rights by the double selection of the stigmata of crime and repeated offenses, are we to let them know that we regard them as incapable of good, and dispense with all moral and religious training? I can scarcely imagine an establishment conducted under such principles. It must be remembered that in a lunatic asylum, where legal responsibility has no force, stress is still laid on the precepts of morality and the regulations of the establishment; in short a species of graduated responsibility is maintained. I should even fear that our ordinary morality might receive a blight, if we came to regard the inflictions of cruelty, greed and brutality, with the same cold regret as we do the injuries of the tempest, the drought or the flood. There is no question that the flash of indignation against wickedness sometimes suppresses immorlities which do not come within the reach of the law, and adds to the deterrent effects of legal punishment. It seems as if this new species of charity might extend to many kinds of wickedness in all grades of society, and much weaken the tone of our moral fibre.

## *THE DANGERS OF THE NEW ALIENISM.**

By A. Wood Renton, Esq., of London.

The modern reaction against the old legal dogmatism on the subject of the capacity and the responsibility of the insane is so strong that it may—not improbably—become excessive and injurious. In the following paper I desire to point out some of the possible relapses, against which the new alienism will do well to guard.

I.

No one can have studied the works of such writers as Ray, Trélat and Du Saulle without having detected in their syllogisms the suppressed "major" that "all who are insane are not responsible." A more unwarrantable or pernicious assumption was never made. The administration of every asylum in every civilized country in the world daily gives it the lie (Cp. *Belloc, Ann. Medico-Psych.* 1861, p. 422) and the English judges that combated it, even with the weapons of error, deserve the thanks of all honest men. The scientific facts, on which the new alienism is based, do not require us to commit ourselves to any such absurdity as an affirmance of the proposition that eccentricity or moral or intellectual "lesion of the understanding" necessarily unfits a man for the rights or exempts him from the responsibilities of citizenship. Yet the chances are ten to one that some theory of this sort will once more pass current for a while, to the temporary discredit of the doctrine of *modified capacity and modified responsibility* which it

* Read before the Medico-Legal Society, April Session, 1891.

should be the business of the new alienism to promulgate.

II.

Equally serious is the danger of a relapse towards the vague general definitions of capacity and responsibility in mental disease, which have so long disfigured the lunacy laws of the continent.

"Il n'y a ni crime ni délit lorsque le prévenu était en état de démence au moment de l'action, ou lorsqu 'il a été entraîne par une force à laquelle il n'a pu résister." This is quite as mischievous in its own way as the "rules in Macnaghten's case." Rigid criteria of capacity and responsibility are, no doubt, impracticable. But such a rhetorical flourish as our continental neighbors have satisfied themselves with, is both useless and pernicious. Can an insane person marry? Can he contract? Can he make a will? Is he capable of crime? How are these questions to be answered? Thus: Let us take them in turn. According to the Christian conception, marriage is an engagement between a man and a woman to live together as husband and wife to the exclusion of all others. (Durham *v.* Durham, 10 P. D., 82.) Has the person, whose marriage is at stake, capacity to understand the true nature of this relationship? Does he show that he understands this relationship by entering into it in his own case? Again: the criterion of testamentary capacity is equally clear. Before I can validly dispose of my property by will, I must know its nature and extent: I must know the persons that have claims upon me, and my judgment and will must be sufficiently unclouded and free to let me weigh the relative strength of these claims. Had the testator capacity as above defined? Similary: contractual capacity depends on the character of the contract in issue. It is

absurd to say that these are *distinct* tests of sanity. Only one test is applied in each case. It is this. Measure the capacity by the act. *Mutatis mutandis*, the same thing hold good with regard to the criminal responsibility of the insane. Look first to the *nature* of the crime, then to the *accused*, lastly to *all the circumstances* of the case, and ask the jury whether the offense in question was *the prisoner's act?* This test of lunacy is scientific. It is not rigid nor yet is it vague. It puts the capacity and the reponsibility of the insane on the same level. It admits, nay requires, the fullest investigation into facts, and it disposes once for all of the contention—whereof such acute controversialists as Dr. Maudsley have made deadly use—that the law recognizes quite a variety of distinct tests of sanity and insanity for legal purposes.

## III.

The last point that I shall deal with in this paper is the position of the medical expert in the new alienism.

At a recent meeting of the British Medico-Psychological Association, the addition—perhaps, having regard to the materials already existing in English law, one should say the development—of the continental system of *preliminary reports by experts* was strongly advocated. The difficulty, however, that lies in the way of this proposal may be stated thus: Criminal jurisprudence on the continent is inquisitorial. Criminal jurisprudence in England and most English speaking countries (Scotland excepted) is litigious. We must look to the attainable rather than to what is theoretically desirable. The appointment of medico-legal assessors would be, readily enough, conceded by the Legislature. But to bring the continental system of preliminary reports

into effective working in England—*hoc opus, hic labor est!*

The disciples of the new alienism should rest content in the meantime with the fruits of victory without the flowers.

## *CRIMINAL ARISTOCRACY, OR THE MAFFIA.**

By Arthur MacDonald, Esq., Docent in Clark University.

The aristocratic sentiment is found among the lower forms of life, where it does not seem to have degenerated, as in man. It is easily traced through the savage world up to man, where if it does not take the form of a government, it seems to exist in classes or individuals as much as ever. While this is manifest enough in the higher circles, it is just as evident among the unfortunate and lower. The poor on the second floor of the tenement house consider themselves superior to those on the top floor. In the alms house and insane asylum the same feeling is the cause of many petty quarrels. Among criminals, both in and out of prison, the aristocratic sentiment often shows itself in the form of associations. The highway robber detests the petty thief, and the most brutal muderers hate liars and consider them cowards.

Association strengthens criminals by discipline, develops their old savage tendencies and causes them through vanity to commit atrocities, that would be repugnant were each of them alone.

The purpose of criminal associations is almost always to appropriate the property of others. They are mostly composed of unmarried young men; who are without education. In their organizations many have an armed chief with dictatorial power and his authority, as in savage tribes, comes from personal qualities. There is sometimes a division of labor, there is an executioner, a

*Read before the Medico-Legal Society, May 13, 1891.

schoolmaster, secretary, priest, physician, and sometimes a surgeon, charged to disarticulate the fingers, so that expertness at stealing can be acquired. Some associations are not allowed to steal in the locality where they live, so that they may have safe domicile. If any one is put in prison for a small offense, they take the precaution to hide nails and files in the cracks in the walls. When they walk with their booty, the women go ahead, holding the packages as if nursing a child. In some societies each has a manual for action and dictionary for slang, some imitate epileptics by falling down in a crowded street, simulating a fit, and consorts pick the pockets of those pressing up to see the supposed victim; others play the part of the insane or deaf mute.

One of the well-known criminal organizations is the Maffia, an ugly association of malefactors; whose home is in Sicily. As a rule, it has no secret sects, statutes, regular meetings or organization. Its power however is very great; it is incarnated in the Sicilians. It is divided into two clans, the Maffia of the city, and the Maffia of the country. They operate together, sustain one another and divide the booty. The members of the city Maffia steal, assassinate, seek to get possession of the large proceeds, and to hold the commune in their grasp. The rustic members are bands of from ten to twenty brigands, who infest the country, causing terror everywhere. The Maffia are professional criminals and desire to become rich by this method. They have their own code of justice, which is not social justice; their verdicts are unchangeable and prompt. A witness, condemned by the Maffia, is killed within 24 hours. They work by terror. A judge will avoid condemning a criminal through fear of being stabbed; a witness

against the criminal shares the same danger. The prefect of Palermo defines the Maffia as a latent and pernicious power in a country where corruption and reaction against authority is a heritage of the past. By the aid of this society people of every class yield to a reciprocal assistance in view of defense, plunder, gain, power, vengeance in using all the means, that law, morality and civilization detest and condemn. The rich practice it, to protect their person and property.

There are classes of *Maffiosi :* the *Maffioso* of action, that is brigand, the thief or the assassin; the secret *Maffioso*, who gathers and distributes the news and is a silent aid for the perpetration of crimes; the *Maffioso manuten golo*, through fear or interest is the purveyor and receiver of stolen goods for the *Maffiosi* of action.

The *Bassa Maffia* is a lower grade of the society. Here any scamp, who thinks he has courage can become a *Maffioso*, threatens to kill some one, and he is honored by all. The *Alta Maffia* seeks to make a show of good manners, and at the same time to be in accord with the brave of the *Maffiosi* of low extraction.

The *Bravi* or supreme chiefs are sometime elegantly clothed and wear yellow gloves. Then there are the stabbers aud the theives. They seek financial aid in enterprises of vengeance, in cladestine lotteries, in illicit profit from public works, and sometimes in blackmailing.

They all follow faithfully their unwritten code. Here are some of the principles : to keep absolute silence concerning the crimes which they witness, and to be ready to give false testimony in order to cover up traces; to give protection to the rich for money considerations; to defy public force at all times and everywhere, and always to be armed; to fight a duel for the most frivolous

motives, and not to hesitate to stab treacherously, to avenge at any price injuries received, even if one is intimately related to the offender. Whoever is found wanting in any of these respects is declared *infamous*, which means that he should be killed without delay, even if in prison; if weapons are wanting, to suffocate him in his pail. He receives also an order to give himself up to death. Knowing the condemnation to be irrevocable, he strictly obeys. Before killing a comrade one notifies him, by drawing a cross on his door or by shooting a pistol at his house. Lombroso has seen many escape death by seeking mercy in being shut up alone in a prison cell.

Like ordinary rascals, they have their slang; they say "sleep" instead of death; "cats" for war; "ruby" for eye; "product of extortion" for linen; "tic-tac" for revolver. Their principal home is in prison. They are firm in their hatred. Lombroso tells of one, who feeling himself the weaker one, kept his vengeance for 15 years; until at last his adversary was condemned to death; then he petitioned the Naples court and obtained the favor of filling the office of executioner.

The most complete organization of criminal aristocracy is the Cammorra at Naples. The Maffia is a variety of the Cammorra. A further study of the Maffia can be pursued perhaps in no better way than by describing the Cammorra.

This organization consists of a number of prisoners, or ex-convicts, formed into small independent groups, but under one hierarchy. The aspiring candidate must prove that he is courageous and can keep a secret. He should kill or wound any one who would name to him the sect; if victims were wanting, he must fight with one of his future colleagues with a knife. Formerly the test

was a more difficult one where he was obliged to raise a piece of money, while the Cammorrists pierced it with their daggers. He must submit to an apprenticeship of two, three and sometimes eight years ; he is in service of another, who gives him most fatiguing and perilous things to do, allowing him a few cents once in while, for charity sake. After he has gained the esteem of his master by zeal and submission, a meeting is called and his reception as a Cammorrist is deliberated upon. If received, he must fight again in the presence of the assembly ; he takes the oath over two daggers forming a cross ; that he will be faithful to his associates, show himself in everything an enemy of anthority ; have no relation at all with the police ; never denounce thieves ; but to have a particular affection towards them, as towards those who expose their life continually. After this a banquet finishes the celebration.

One of the most important matters is the distribution of "*la cammorra*," a little vessel which contains the extortions in gambling rooms, brothels, from those who sell water melons and newspapers, from hackmen and beggers and from prisoners. These last furnish the best revenue. On entering prison the "unfortunate" must give a tenth of his possession, and pay for drinks, food, gambling and for sleeping on an easier bed.

A Cammorrist cannot kill a comrade without permission from the chief, but in revenge he can make away with any one else. If there are doubts as to the fidelity of a colleague ; before condemning him, they send him a plate of macaroni ; if he refuses to eat it (for fear of poison perhaps) they feel certain of his guilt, and his condemnation is pronounced ; and lots are drawn to indicate the apprentice who must execute it. This is done punctually, as shown by this fact ; A pris-

oner tells the governor of a castle that a Cammorra had been established for some time, and that it was his misfortune to be one of the chiefs ; one of the laws is to compel all the convicts to pay two cents a day. A certain convict, Razo, would not submit to this. The chiefs of the Cammorra voted unanimously to put him to death. But the lot fell to him (the chief) to strike the blow ; he accepted and was to commit the crime that morning. But on reflection at the sad conequences of such a forfeit, the cause of which was only two cents, he restrained his arm and went out of the castle. He then begged the governor of the castle to isolate him, for after this treachery, his comrade chiefs would kill him without pity.

Yet the Cammorra is not wholly without heart as shown in the case of the young girl, whose lover had been condemned to death, for refusing to pay his contribution. She asked that her lover might be pardoned ; and it was accorded to her with Olympian majesty.

## *THE KOCH LYMPH IN PUBLIC MEDICINE**

By G. Bettini di Moise, M. D., of New York.

When the entire world awoke to the fact that hopes existed for the cure of tubercolosis in general, and for pulmonary tuberculosis in particular, that terror and dread before which the most courageous spirit quails, an Italian newspaper, published in this city, the *Progresso Italo-Americano*, chose my humble self to go to Berlin, for the object of studying the methods and applications of the discovery of Dr. Koch, and their effects generally.

At that time, Berlin was the "Mecca" to which rushed hundreds and hundreds of poor persons, and after long and painful journeys, few of them alas! found the relief and comfort they expected, and in fact, their condition became worse.

Thousands of physicians meet in clinics of Berlin to study the new methods and possibly to get possession of one bottle of that famous lymph, a very difficult thing to obtain, and many others would have spent thousands of marks only for the sake of not coming back with empty hands.

Now, however, all is silence; calm has succeeded to excitement, and many perhaps are ashamed to have been victimized by the universal hypnotism.

My desire is to show, to-day, to you, ladies and gentlemen, that nothing has happened to justify such a change of opinion, and, just at the moment of my arrival at Berlin, I wrote to a newspaper as follows:

* Read at the Medico-Legal Society Session of June 10, 1891.

"Sufficient time has not yet elapsed to pronounce a fair and positive judgment upon the lymph; nevertheless, we can affirm that, in the discovery of Dr. Koch, we possess a substance which has a powerful, rapid, and eminently specific action upon the tubercular processes existing in the different parts of the human body."

"This substance may enable us to learn the true existence of such processes; this is its diagnostic value, besides which it has a direct efficiency in curing tubercolosis, when not in too advanced a stage."

My opinion now exactly coincides with that I thus expressed in December last. That the lymph, or tuberculine, exercises a specific action on the tubercular processes never has been denied by its many opposers, and in this essential quality rests its fundamental importance, in which it differs from all the other therapeutic remedies, invented by ancient and modern pharmacy.

Its diagnostic value is equally discussed, because it does not produce a reaction on the tubercolosis exclusively, and because such a reaction does not always take place. The first objection has been denied by Koch himself after an experience made by him on his own person, but the rule remains unchanged, and it is that in tubercolosis cases, local and general, a reaction follows; that the local reaction does not make any appearance in other sicknesses, and that the general one is of very inferior strength.

This is the reason why many distinguished scholars in this country and abroad, seeing how it acts on cases of cancer, believe it to be also a specific for that infirmity. I do not need to tell you how they are mistaken.

It would be useless to remind you that we are in the presence of a discovery which, like all new inventions of science, requires long and assiduous experience in

order to manifest its real importance, its defectiveness, and the improvements needed. The physical world, too, is gradually improving, by the careful studies and the assiduous work of men of science. Every discovery is born a child; time and practice bring it to maturity. Its diagnostic merits have been duly mentioned; I would now consider the lymph from the therapeutic point of view. This is the point of most interest to the generality of the public, and here we have to seek for the origin of the change in public opinion to its regard.

In spite of Koch's very prudent and cautious language, so many hopes have developed, that their accomplishment, even in the incipient period, had to appear to the wise as impossible to realize.

When it was seen that certain cases of incipient consumption failed to be cured, as it was then believed, that the *lupus* too, resisted to the definitive action of the remedy, justifiable scepticism arose among the masses, and it continues to exist.

But, perhaps, nobody considers how careful the physician must be, not only in the choice of his patients, but in the most delicate application of the method.

I have already observed that a new invention must force its way through many difficulties and oppositions, especially in the earliest days of its existence; only practice, the great teacher of life, is able to place it in its true direction. Such will necessarily and inevitably be the destiny of Koch's discovery, and first experiences showed that a learned, vigilant eye is indispensable for a perfect diagnosis of the patient, and a keen judgment and reasoning power in order to keep a due measure in applying the remedy.

It was decided, at the beginning of the discovery, to make various experiments, and if some of them did not

succeed, (and there have been deaths to be deplored), the past shall be to us a guide and a treasure of experience for the future. A well deserved praise has to be given to the celebrated Professor Virchow, who, basing his opinion on the ground of various post mortem examinations, many of which were performed in my presence, by his attendants, has proved how, with the reaction obtained by the lymph the processes can be propagated in other organs, producing the tuberculosis miliaris. It is difficult to show the cause of such a phenomenon, but who is the physician who failed to observe during the development of *tubercular coxitis*, the patient to be suddenly stricken by acute meningitis, without it being possible to explain how the only process believed to exist in the patient could act fatally ? And does not the same thing happen after some important operation, just as if with the very operative action the general infection had been inoculated ? And lastly, how many processes of tuberculosis miliaris appear during accouchment, and bring the patient to the grave, although we only believed it a case of incipient consumption ?

But these facts can far better be explained "a priori" and easier by the words of Professor Koch himself, than by our syllogisms. He said, indeed, on November 13th, 1890 ; "There is no matter of the death of the tubercular bacilli, but of an absolute change of a necrobiosis of the texure involving the bacilli," and further : "In this mass of textures some bacilli can be found alive, which can be expelled or take refuge on the neighboring tissues." And immediately adds, "With the continuation of the supplying of the lymph, the neighboring tissue and all the textures are protected against the migration of the parasites."

Professor Koch has, therefore, advised us of the possi-

bility of such a fact, and although it was not the cause of many deaths, the confirmed knowledge of it is of great importance. These and many other troubles have caused different effects on the opinions of many physicians, a number of whom believe that the dangers surpass the chances of benefit, and are timed in using the lymph, while others, (among whom I count myself) after having studied every observation which has appeared in the medical literature of these last months, are trying to avoid, with the best improvements in their methods, all the dangers, or at least, to reduce them as much as possible under the circumstances, and feel it to be their duty in the cause of humanity, to continue in that course. I trust that our efforts, which aim to benefit and serve mankind, will not be despised.

But, ladies and gentlemen, did not all the great medical discoveries meet with the same sate? When chloroform was introduced, 45 years ago, were not all against it? How many deaths have occurred, and occur daily, one case having been proved fatal in Brooklyn, one week ago, with only two ounces of chloroform?

And that discovery, the greatest of our times, the dressing of wounds "a la Lister," with what kind of distrust has it been received, or better, fought against? Many cases of poisoning have happened by carbolic acid, employed in that cure. Now, nothing has remained of the method of Lister, but his great discovery will remain forever, and the surgeon who does not use it to-day, deserves the bitterest reproaches.

The same course will be that of the method of Professor Koch, always remaining his discovery, the very basis of the cure of tuberculosis, being proved that in such kind of sicknesses, it has a powerful action, giving the possibility to state with certainly the character of

the sickness, in case of incipient consumption, and having an infallibly salutary effect.

I do not wish to detain you too long a time, nor would I abuse your patience, with a new relation of all the favorable cases in which the lymph has proved advantageous and beneficial. I could tell you about my modest statistics of 49 cases of whom 6 are considered as cured, with the restriction, obligatory to any clinic, to reserve the judgment to the necessary control of time. And I could quote statistical figures resulting from favorable experiences in many Europern clinics, besides those of Berlin, in support of my thesis, but I consider it useless for my aim, which is modest, simple and generical, and I restrain myself to conclude, that the opinions of clinics are at variance, on the therapic value of lymph, and united on the high scientific importance of Koch's discovery.

I will conclude with the words with which the Nestor of the German surgeons opened the Surgical Congress at Berlin, in the earliest days of April : "Koch's discovery is the greatest ever made ; it has opened to us new horizons ; and if the results are not quite palpable, it has put us on the right way and has torn a veil which covered our eyes. *Nunc Laboremus.*" And indeed, Koch's discovery was not the result of a casualty, but the product of ten years of work, and under every point of view it is the most important result obtained by scientific studies in our century.

The fact that those little beings producing the tubercolosis segregate a substance which hinders their propagation and destroys them will remain the basis of therapy for the tubercolosis.

## *THE NEW ORLEANS TRAGEDY.*

By Clark Bell, Esq.,

It is difficult to discuss this unfortunate affair in America, in a manner that can be clearly understood by Italians in Italy, though we feel certain that the Italio-American colony, will fully understand it.

Suppose that a society existed in Sicily, composed of Sicilians only who had banded themselves together, by secret oaths, having the objects and purposes, which men of all classes in New Orleans, believe the *Maffia* was organized and exists for; suppose that two criminals in America, of American birth, fleeing from the United States, sought Sicily with a view (besides escaping from the punishment of their crimes), of becoming subjects of Italy and never again returning to America, and should unite with this organization.

Suppose that the Government of Sicily under the forms of Italian law, had decided to suppress this organization, and the head of the police of Sicily had consecrated himself to the work, and was moving heaven and earth to suppress it with the approval of the Sicilian authorities.

Suppose the society decided to kill this chief of police and designated 8 or 10 men by ballot to assassinate him bound by their oaths to do so, and who, acting under such direction plotted, laid in wait for him, and all shot him dead at a given hour and place, by a preconcerted signal and arrangement, and that all Sicily knew this, or believed it, to be true.

Suppose that some of these assassians were committed

under Sicilian laws, for the murder of this chief of police, and that the tribunal who tried them whether with or with or without jury, were directly threatened by the society and intimidated, or bribed, in the eyes of all Sicily so as to let the assassians go free.

Then suppose, in the chief city of Sicily, where this occurred, the leading citizens of the highest social standing, without distinction of party, or class, met by unanimous voice and assent, publicly in the market place, marched in a body to the jail, seized all the accused, and without ony trial or process of law, and by a mob, shot them all dead, including the two American criminals who were equally guilty with the others. This would be something analogous to what has occurred in New Orleans.

Supposing not one man in Sicily, of any note or standing, could be found who refused to condemn the action of the mob, upon the general grounds that when the judicial authorities of the city were powerless to avenge the death of the chief of police, or bring the murderers to justice, it left the society in full control of the city, except the people arose and accomplished what the courts, and tribunals of justice had failed to do.

Suppose that the people of Italy demanded,

1. That the assassins of the chief of police should be punished.

2. That the Society should be suppressed, and that this sentiment was universal.

Suppose that under the authority of the Italian Government Sicily was an independent State or Province in which all crime had to be tried and punished under the laws of Sicily, and before Sicilian tribuals, and that the Italian Government had no power under the constitution and law of Italy, to even arrest, much less try

either the murderers of the Chief of Police, or those of the mob who shot his assassins.

This would be the situation if the United States of America should seek to make an international question of the occurence, on account of the two fugitives from their country, who, although seeking Sicily intending to become citizens there, and never to return to America, had not yet obtained their full papers, though by virtue of Sicilian laws they had voted at Sicilian elections, and only wanted the lapse of time to become fully naturalized as is now permitted in about seventeen of the American States and Territories.

Now all Americans regard Italy with pride and affection. It is the land of poesy and song of all the world and from all time. It is the home and fountain head of art. The Home of Cicero of Raphael of Michael Angelo, of Del Sarte of Dante. It is the land of Garibaldi and of Mazzini. It is the cradle and home of science, and it gave birth to that ilustrious name that found the new world in the Western Seas.

The Maffia are criminals in intent, in purpose, and methods, there is no place, need, or room for such an organization in America, and it must be suppressed at all hazards and cost what it may.

No Italio-American of sel-frespect, will or does defend the Maffia, or justify the killing of the New Orleans Chief of Police.

It is almost impossible to make a stranger comprehend, that the people who in America are the source of all power and all law, frequently resume the reins of authority and government in great emergencies, when the tribunals, as formed and existing, have demonstrated their inability to protect life or property, or to prosecute for crimes so public, as to be universally known of all men.

The vigilance Committee of San Francisco was an example of the exercise of that power.

The first Committee of 100 in New York was an initial movement in the same direction.

A similar movement in New York could and would be successfully inaugurated, when by general acclaim the courts failed to administer justice, or the public authorities defied public sentiment dominated, and controlled the tribunals of justice, and sought to disregard the rights of citizens, or overthrow and trample upon private rights.

The tragedy at New Orleans is due, aside from the existence and crime of the Maffia, to that general public neglect, which has rendered the tribunals powerless to punish the murderers of the chief of police, and to a general feeling dominating and pervading all the citizens, that lawful means having failed to correct unbearable abuses, heroic measures, outside the law, but in accord with universal popular feeling must be adopted and sustained.

The Government of the United States is as powerless to convict those who shot the assassins of the chief of police, as it would be to try these members of the Maffia connected with that assassination.

It is a purely local question wholly governed and controlled by the State Laws of Louisiana.

As such, it disappears from national politics and ceases to be an international question.

America, if the positions were reversed, could not make demands upon Italy for the Sicilian disturbance as outlined. If she could do so, she would not do so, for criminals and for assassins who had shocked all Sicily.

Italy stands a hallowed heroic name, loved revered respected in America everywhere among all.

America welcomes to her shores, and her open arms, the brain and muscle of all the crowded peoples of the world. She has no room for assassins, for murderers, or for criminals. Her laws forbid their reception.

None are more welcome than the sons of Italy. None have done nobler or better work, and the great army of Italians now thronging our national areas and life are honest, industrious, frugal. Not speaking our language they are often the prey of unscrupulous padrones and agents, but they are an element of enormous strength and value to the America of the future.

I advance three sentiments:

1. Welcome to our shores, sympathy and regard, every honest son of Italy who seeks to make this land his country by adoption, and the home of his posterity, to improve his condition, and enjoy the blessings of liberty which we enjoy.

2. America, while the home of the oppressed and down-trodden of all nations, should not be converted into a colony for the criminal classes of any nation, nor be made chargeable as a charitable institution with the support of the paupers of any nation.

3. The suppression and the extermination of all organizations of criminals in America, bound by obligations or oaths, to assassinate any one, upon the vote or demand of the society.

I conclude with the hope, that the friendship of America and of Italy may be in the end cemented still stronger by this unfortunate incident, which, while arousing temporary estrangements by misapprehension of the real facts, will in the end illustrate the depth and the power, of that warm feeling of friendship, which everywhere exists on the American continent, for the prosperity and honor of Italy.

# *THE MEDICO-LEGAL RELATIONS OF ABORTION.**

By Harold N. Moyer, M. D., of Chicago.

A case recently tried in the city of Chicago, illustrates so well some of the mooted points in these cases, that we think a brief recital of the more salient points may not be without interest. Text-books devoted to medical-jurisprudence are notoriously deficient in dealing with concrete examples. Glittering generalities, and broad deductions are to be found in abundance, but when we come to look for information on a specific point we mostly seek in vain.

In our account of the following case we shall not describe any of the collateral circumstances brought out at the trial, but confine ourself to those few points that have a medico-legal interest.

The coroner's physician was called upon to make an examination of the body of a young woman dead about twenty-four hours. Decomposition was far advanced, the abdomen distended and marked by *post-mortem* staining; the entire surface of the body was much discolored. On section all the internal organs were softened, corresponding to the rather advanced state of decomposition. The uterus was about seven inches in length and contained a considerable quantity of decomposing blood, no remnants of fœtus or fœtal membranes were found, but the surface of the uterus presented a circular denuded surface corresponding in size with that of a four months placenta. The opinion was given

* Read before the Medical-Legal Society, June 10, 1891.

that death was caused by blood poisoning, based upon the enlarged uterus with its open sinuses, and the rapid decompositions. It is manifest that the cause of death as here given was in inference, to be sure a most probable one, but still one that never acquires the force of complete demonstration. To illustrate; in this case had septic forci been found in the heart muscle, or the peculiar changes in the linings of the blood vessels, or disseminated foci of pus, this would have been a *demonstration* of blood poisoning. The evidence went to show that a strong liniment containing a considerable quantity of hyoscyamus had been prescribed for this girl, which she might by mistake have taken internally. Additional force is lent to such a suggestion by the fact that the cause of death was inferential rather than demonstrative.

A point raised by the defense was as to the presence of a fœtus. It is at once apparent that this is a most important point and one that we are frequently called upon to determine even when all the products of conception have been swept from the uterus. The chief indications in this case were the circular denuded area, the enlarged uterus, a corpus luteum of pregnancy, and the enlargement of the uterine blood vessels, beneath this denuded area. The corpus lnteum of pregnancy can be disposed of as having only negative value. The question then presents itself; can certain tumors, (polypi) cause enlargement of the uterus with an increase in the vascular supply beneath a circularly denuded surface. We must confess that it seems very doubtful, but are we prepaired to deny the possibility, in the light of our present knowledge, or rather want of knowledge?

We now need additional studies upon these questions,

particularly as criminal abortion is becoming alarmingly frequent in this country, and the punishment of the guilty as well as the protection of the innocent should alike encourage us to seek for additional knowledge.

Will not some one study this subject carefully to see if additional signs of pregnancy can not be determined after death, even when fœtus and mambranes are entirely gone. Especially do we used differential studies on the vascular changes in the uterine wall in tumors and pregnancy, as we are satisfied that it is upon this line that a solution will be reached.

Another interesting question is as to the legal *corpus delicti* in these cases, that is the criminal abortion. Of course, collateral, circumstantial and other evidences will do much to establish this, but the question always presents itself; was the abortion criminal? It is apparent that an abortion from natural causes may be attended by circumstances that make it appear criminal, and the most is made of this argument in the defense of these cases. While convictions for abortion may be obtained on the confessions of accomplices or other evidence; failing these, it is doubtful if they can be sustained, excepting where there is direct evidence of the administration of an abontefacient drug, or the marks of injury or violence is found on the person of the mother or upon the fœtus.

It is apparent that abortions are done secretly, with no one but the operator and victim present. They are rarely investigated unless the victim dies, so that the *post-mortem* appearances are of the greatest importance. Under such circumstances can the *corqus delicti* be said to be proven, unless there is evidence to show the *criminal* nature of the act, and how is this to be shown unless there are some marks upon the fœtus

or upon the person of the mother? We need not carry our analysis of the subject farther to show what relation the natural abortion bears to the doctrine of reasonable doubt as laid down in criminal cases. The fact remains that a conviction for criminal abortion is next to impossible, unless marks of direct violence are found.

## *PRESUMPTION OF DEATH, AND OF SURVIVORSHIP.*

By Prof. John J. Reese, of Penn.

### PRESUMPTION OF DEATH.

This question may be raised when a person goes away from home, and is not heard of for many continuous years. The law will, in that event, regard him as dead, or *presume* his death, and his administrator or executor may proceed to settle his estate. The question under this form is not unfrequently raised in life insurance companies, where the party insured has not been heard of for many years, and his lawful heirs demand the payment of his policy. It must also be considered in cases where a husband deserts his wife, or *vice versâ;* or where either married person leaves the other, and remains continuously away; or, where the party going away without the intention of remaining, is not afterward heard of for a succession of years.

The length of time usually regarded as legally warranting a presumption of death, in any of the above cases, is seven years from the time the person was last heard from, so that in the case of married persons, it is not regarded as bigamy if the other party should marry again after the expiration of the seven years of continuous absence, without being heard from, or being known to be alive. In cases of heirship and property, and in some cases of life insurance, it is often not considered necessary to wait the whole seven years, but a settlement has been made by the courts or company in two years.

The presumption of death must depend on general evidence, being a presumption of *fact* to be determined by a jury. There are cases, however, of a special character, where the courts have decided the presumption of death to be sooner or later than the period of seven years, as, *e. g.*, if the individual concerned was in feeble health when he or she was last heard from. This question would involve medical evidence as to the probabilities of life, in such a case.

### PRESUMPTION OF SURVIVORSHIP.

Questions relating to presumption of survivorship are much more frequently discussed in the courts than those pertaining to presumption of death. There is, however, no general law upon the subject, either in this country or Great Britain, every case in which the question is involved being decided according to its individual merits. When two or more persons perish by the same calamity, in the absence of all testimony, the courts frequently refuse to assume that one survived the others, but have decided that all perished together. Yet very momentous questions may be dependent upon a legal decision of the question of survivorship; as when the parties dying are a father and a son; if the son survive but for a moment, "his wife shall have dower, for the lands descended the instant the father died." So, in the case of a testator and legatee; if the latter dies first, the legacy lapses; but if he survives the testator for ever so short a time, his executors can claim. So again, the husband of a woman possessed of freehold property (not specially settled), has a life interest in her estate, provided she has issue by him, born during the life of the mother, and which survives her even for a moment of time (*tenancy by courtesy*). The old Roman law upon

this subject, upon which are based most of our modern decisions, enacted that when persons of different ages perished in battle, those under puberty were deemed to have died first; but if the son was above the age of puberty, and both died together, the son was *presumed* to have survived the parent. In the case of husband and wife, the husband was *presumed* to be the survivor (Beck).

According to Foderé and Beck, the French law, as contained in the Code Napoléon, is as follows :—

"I. If several persons, naturally heirs of each other, perish by the same event, without the possibility of knowing which died first, the presumption to survivorship shall be determined by the circumstances of the case; and in default thereof, by strength of age and sex.

"II. If those who perished together were under fifteen years, the oldest shall be presumed the survivor.

"III. If they were all above sixty years of age, then the youngest shall be presumed the survivor.

"IV. If some were under fifteen, and others above sixty, the former shall be presumed the survivors.

"V. If those who perished together were over the age of fifteen, but under sixty, the males shall be presumed the survivors, where the ages are equal, or the difference does not exceed one year.

"VI. If they were of the same sex, that presumption shall be admitted which opens the succession in the order or nature. Of course, the younger shall be considered to have survived the elder."

According to Section IV in the above Code, no distinction is made between an infant and a man of sixty years; yet certainly, it may fairly be supposed (as remarked by D. Tidy) that the latter had a better chance

of life than the former. The Prussian law on this question is about identical with the Code Nepoléon.

Although our laws are not decisive on questions of presumption of survivorship, but treat them as questions of fact depending wholly on evidence, and, in the absence of all evidence, regarding them as matters incapable of being determined, still, there are certain matters of importance connected with each case as it presents itself, which deserve the consideration of the court and jury, in influencing their decision. These points may be considered under the following heads :—

(1) *Probabilities afforded by the Age.*—Between a father, and a child under puberty, the English civil law decides the father to be the survivor. Between the ages of fifteen and sixty, there is no probability. Between a middle-aged man, and one under fifteen and over sixty, the probabilities are in favor of the former. Between one under fifteen and one over sixty, the former is deemed the survivor; but the same exception might be taken here as in the case of Sect. IV of the Code Napoléon (*supra*). Between two under fifteen, the oldest is considered the survivor. If the question is between a mother and infant, both dying in childbed, without assistance, the presumption of suvivorship is in favor of the mother, because the child might be still-born, and also because, if large, its life might be endangered by delay, and it would be more exposed to danger without assistance, such as strangulation by the cord, or suffocation in the discharges of the mother.

(2) *Presumption afforded by the Sex.*—The presumption is in favor of the male, when it is a question of physical strength and courage, as when a man and woman perish together by drowning, or some other casualty. But in particular cases, the question of the

respective *health* of the two persons might have to be considered. When, however, it is a question of passive endurance, especially where insensibility supervenes, then the presumption is in favor of the female.

(3) The *Cause of Death*, as affording a presumption of survivorship. In death from asphxia (apnœa), as in smothering, or breathing noxious gases, as women require less oxygen than men, the probabilities are in favor of the former, other things being equal. Thus, it is stated that, in Paris, in one year, there occurred three hundred and sixty cases of poisoning by charcoal vapors; of this number there were nineteen instances where a man and a woman were exposed together, and of these only three survived, and all were females. Dr. Beck relates the case of a man, wife and child, who were all asphyxiated while sleeping in a room which was exposed to the vapors of a coal stove. In the morning, the man was found dead, the child dying, but the woman recovered.

In *drowning*, or *shipwreck*, the question becomes very complicated, having to take into the account age, sex, strength and opportunity. Thus, men, being stronger, more likely to be able to swim, and in case of shipwreck, being more apt to be on deck, and, therefore, in a better position to escape, have the best probabilities for survival; but, on the other hand, the buoyancy of a woman's clothes might support her in the water, and thus save her life, under possible circumstances. In case of two or more persons, all males, equally exposed, a presumption of survivorship can only be entertained by searching for badily injuries, or other weakening causes, which would necessarily interfere with the individual's exertions to save his life. Here, also, their re-

spective swimming capacities would have to be considered.

If the question be on the survivorship, in the case of several persons exposed to excessive *cold*, the amount of clothing, the physical condition, and the immoderate use of alcohol must all be considered before arriving at a conclusion. The probabilities would here be in favor of the strong adult over the very young, or very old person, and of males over females. The debilitating effects of poverty, entailing a bad nutrition, and also of intoxication, as being especially obnoxious to the effects of cold, should not be overlooked. The perishing of drunken people on a cold winter's night is a too familiar occurrence. In relation to the effects of *heat*, it may be remarked that, while the young and old suffer more from cold than adults, they seem able to withstand a greater amount of heat than the latter.

In death by *starvation*, the general principle that the young require more food than the aged, will determine the presumption of survivorship to be in favor of the latter; also for the female, rather than the male. Certain circumstances, however, should here be considered, such as proximity to water, which would aid in sustaining life for some time even without food.

## *ELECTROCUTION.*

By Clark Bell, Esq.

The recent execution of four convicted murderers by electricity at Sing Sing Prison, will do much to allay the excitement in the public mind, in regard to the new method of capital punishment.

We regard the question of the entire certainty, efficacy, and painlessness, of this death, as now demonstrated beyond cavil or question.

From the most reliable sources of information at our command, as to the details of this execution, we are surprised that so little muscular phenomena usually accompanying sudden and violent death was observed.

Death by decapitation, by shooting, by hanging, especially where the death is clearly instantaneous, is almost always accompanied by violent muscular action and phenomena, which, though wholly unconscious, seems so like consciousness, as to mislead and deceive the inexperienced observer, as in Kemler's case, where the usual muscular, *sequella*, though wholly painless, and without consciousness, was so strangely misunderstood by the public press and by many right minded people.

The muscular action of a chicken, after the head is decapitated is familiar to all. Of necessity all must concede that phenomena, is merely muscular and entirely painless. Last year the writer saw an extraordinary example of this character.

He had sold a large and powerful boar to a butcher, who, to save trouble to himself, had stipulated that the

animal might be killed in the farm yard, at his country place, "Bell View," near Dundee, N. Y.

The boar was shot, the rifle ball entering the eye ball at a close range. He fell instantly and was entirely motionless.

The butcher then "stuck" him, as it is technically called, plunging a long knife into his neck severing the jugular and carotid artery, and the blood flowed copiously, entirely emptying the body of blood, the animal not moving a muscle. A large hook with a handle was then inserted in his nose, and the boar drawn to a wagon to be loaded, a distance of about twenty feet, by two men.

He weighed more than 450 pounds, and the men were unable to lift him into the wagon. At my suggestion the butcher went to a pile of heavy lumber in an adjacent yard, brought some planks to make an inclined way to load him on the wagon. This completed, they sought to draw him up on to the wagon, when the animal, who had been hitherto absolutely motionless, commenced a most exciting struggle. There were violont gaspings as if for breath, and separate drawing in of the breath through the mouth, as in convulsive gasps.

The contractions and actions of all the limbs, were violent in the extreme, and what seemed a determined resistance by the animal to the loading upon the wagon, and these struggles and convulsions continued for several minutes, and although no exact time was taken by a watch, appeared to occupy at least, three or four minutes.

While no time was exactly taken, at least five minutes must have elapsed after the bullet pierced the brain, and three or four, after he had finished bleeding before the slightest muscular action commenced. No one can

doubt that this action was merely muscular, painless and unconscious.

The identical phenomena might occur in a human being, shot through the brain, followed by emptying the blood from the body by severing the carotid artery. We may therefore say, that muscular action following death by shooting, decapitation or electricity, does not necessarily indicate pain or consciousness in the subject.

The warden has been severely criticised by the press. That officer seems to have been governed by his oath to honestly execute the law, which in its severest sections of refusing details for the press, has excited the liveliest hostility of certain very influential journals.

The spirit of the law and its letter is clear, that the details of executions of criminals should not be furnished the press for publication.

This reflects the popular sentiment of the day. The law has been enforced by the warden, and the other officials, for which they are entitled to the thanks of the public. The law makes it a criminal offence to publish such details, and a conviction of some of the offenders would be healthy, and for the public weal, if the law is to be enforced and respected.

The enemies of the law are confined to :

*First*—Those who oppose capital punishment for crime of any kind.

*Second*—Their allies of the press, whose hostility is addressed to the idea of suppressing the publication of revolting details of the executions of criminals.

We are, at last, where the calm, deliberate judgment of the people of the State can pass upon the law and its workings, and from our standpoint, it will be sustained by an overwhelming public sentiment, so long as capital

punishment for high crimes continues to be the law of New York.

NOTE.—Since the foregoing was written, the public aulhorities have decided to prosecute leading journals for a violation of that section of the Statute that forbids detailed publications of such executions. The language of the Statute is as follows:

"No account of the details of any such execution shall be published beyond the statement of fact that such convict was duly executed according to law at the prison. Any person who shall violate or omit to comply with any paovision of this section shall be guilty of a misdemeanor."

Laws of 1888, as amended—The indictments are under section 507 of Criminal Code as amended. Indictments have been found against the *N. Y. Herald* and the *Daily News* selected as the most prominent representatives of the press of the City of New York—the one a morning and the other an evening paper.

This will bring to a judicial determination the constitutionality of the law. The journals will claim that the Statute is in violation of the Constitution of the State. The language of the Constitution is as follows:

"*Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right;* AND NO LAW SHALL BE PASSED TO RESTRAIN OR ABRIDGE THE LIBERTY OF SPEECH OR OF THE PRESS."

Under our practice tho question can be raised by demurrer and a decision of the Court of Appeals obtained by the 1st of January, 1892.

The action of the District Attorney in seeking judicial action in support of the law is praisworthy, and if the view taken by the leading journals is well founded, all good citizens will rejoice at an errly solution of a question which while not touching the efficacy of the mode of punishment, will eliminate the most important factor of those who oppose it, no matter which way the court decides this question.

## *TOXICOLOGICAL*

### POISONING BY IODINE, BROMINE AND CHLORINE.

By Prof. John J. Reese, of Penn.

*Iodine* occurs in shiny, dark, iron-gray scales; it has a peculiar odor and disagreeable taste; when heated it gives off beautiful violet-colored fumes, which are irritating to the nostrils and throat. Sparingly soluble in water, very soluble in alcohol and ether, and also in the aqueous solution of iodide of potassium. It is used medicinally in the form of *tincture*, *compound tincture*, and *ointment*.

*Symptoms.*—Like phosphorus, iodine produces a local irritant effect, and a remote influence; the latter, the result of using it in small quantities. In large doses it occasions burning heat in the throat; severe pain in the abdomen; vomiting and purging, the vomited matters having the peculiar odor of iodine, sometimes mixed with blood; the color of the matters is yellowish, except when they consist of farinaceous articles, in which case it is blue. The bowels may also exhibit the presence of iodine. Other symptoms are giddiness, headache, thirst, anxiety, convulsions and fainting.

In chronic poisoning (*iodism*) the symptoms are nausea, vomiting, purging, pain of stomach, tumors, palpitation, salivation, cramps, general emaciation, and a tendency to absorbtion of certain glands, especially the testes of males, and the mammæ of females.

There is a remarkable diversity in the effects of iodine upon the human system, some persons bearing very large doses with little or no suffering, while others are seriously affected by the smallest quantities. Overdoses

have occasionally proved fatal, leaving morbid appearances very similar to those produced by the irritant alkaline salts.

*Chemical Analysis.*—In its free state, iodine may readily be distinguished by its solid form, color, odor, volatility, and its action on boiled starch—quickly turning it blue. In *combination*, as iodide of potassium, the iodine must first be set free (by chlorine, or nitric acid) and then the starch-test applied.

From organic mixtures the iodine may be separated by bisulphide of carbon, which dissolves it, forming a pink solution; remove the watery liquid, and evaporate the bisulphide solution to dryness, when the iodine will be left.

If this process fails, on account of the conversion of the iodine into hydriodic acid, or into an iodide, it will be advisable to transmit sulphuretted hydrogen through the mass, properly diluted; this will convert any free iodine to hodriodic acid; drive off the excess of gas by heat, add patash in excess, filter and evaporate to dryness. Clear the residue at a low red heat, to get rid of the organic matter; pulverize and dissolve in water. Concentrate the solution, and add strong nitric and boiled starch, which will develop the iodine, if any be present.

*Iodide of Potassium.*—Although much used in medicine, in doses up to sixty grains, it occasionally produces violent effects upon the system, such as headache, griping abdominal pains, thirst, inflammation of the nostrils and eyes, and frequent pulse, together with salivation, and a pustular eruption. As found in the shops, the salt is apt to be considerably adulturated with the carbonate.

*Bromine.*—This is a dark red, volatile liquid, exces-

sively pungent to the eyes and respiratory organs, having an acrid odor and taste. It is highly corrosive, destroying animal tissues very rapidly. It has occasionally proved poisonous fatally. A case is reported by Dr. Sayre, of New York, of a daguerreotyper, who swallowed an ounce of bromine for the purpose of self-destruction. The immediate symptoms were spasmodic action of the muscles of the larynx and pharynx, with great difficulty of breathing, followed by intense burning pain in the stamach, with great anxiety, restlessness, and trembling of the hands. The pulse was rapid, tense and corded, and respiration greatly hurried. Collapse soon followed, and death took place in *seven and a half hours* after swallowing the poison.

The post-mortem examination revealed vivid injection of the external coat of the stomach and of the abdominal viscera generally, which were stained of a deep yellow color. Portions of the stomach were softened. Its contents resembled port-wine dregs, and exhaled the odor of bromine. Its whole interior was covered with a thick black layer resembling coarse tanned leather. The mucous membrane was very thin and very deeply injected (Whar. and Stillé's *Med. Jurisp.* from *N. Y. Jour. of Med.*, Nov. 1850).

*Chemical Analysis.*—Bromine may be separated from organic matters by means of bisulphide of carbon, or by ether, after the method described for iodine. The *bromides* may be decomposed by chlorine, or by a strong acid. Bromine is characterized by imparting a deep *yellow* color to boiled starch.

*Chlorine* is a powerful irritating gas, of a greenish-yellow color. If inhaled into the lungs it may destroy life, like gaseous ammonia. Chlorine is readily recognized by its smell and color, and especially by its powerful *bleaching* properties.

## *TRANSACTIONS.*

### MEDICO-LEGAL SOCIETY—APRIL MEETING.

PRESIDENCY OF CLARK BELL, ESQ.

Medico-Legal Society met at Hotel Buckingham, April 8, 1891. President CLARK BELL in the chair.

The following member, proposed by President CLARK BELL, were, on recommendation of the Executive Committee, elected.

ACTIVE MEMBERS.

W. S. Watson, M. D., Mattewan, N. Y.; A. B. Richardson, M. D., Cincinnati, Ohio.; J. Craig, Esq., St. Joseph, Mo., Solon P. Rothschild, Esq., N. Y. City.

CORRESPONDING MEMBERS.

J. Rodes Buchanan, M. D., Boston, Mass.; O. Wettersrand, M. D., Stockholm, Sweden ; Prof. J. M. Baldwin, University of Toronto, Canada ; Prof. Nicholas Grote, University of Moscow ; Prof. M. Masius, University of Liege, Belgium ; M. Alfred Binet, Paris, France ; Prof. C. F. Hodge, Clark University, Mass.; Edgar Berillon, Editor *Revue Hypnotique*, Paris, France ; Prof. Azam, Bordeaux, France ; Prof. De Boeuf, University of Liege, Belgium.

In the absence of the author, a paper by Dr. W. W. Ireland, of Scotland, entitled "Is Criminal Anthropology a Science?" was read by Vice-President Bach. The Chair made remarks upon to the death of Judge John R. Brady and Dr. John P. Garrish.

The Society then adjourned.

WILLARD C. HUMPHREYS,
Secretary.

## MAY MEETING.

PRESIDENCY OF CLARK BELL, ESQ.

Medico-Legal Society met at Hotel Buckingham, May 13, 1891. President CLARK BELL in the Chair.

The following members were, on recommendation of the Executive Committee, elected :

ACTIVE MEMBERS.

Proposed by DR. E. N. CARPENTER : G. E. Bowman, M. D., Sup't of the Long Island Home.

Proposed by CLARK BELL, ESQ.: Wm. Pugsley, Esq., Solicitor General of New Brunswick, St. Johns, N. B.; H. G. Blair, Esq., Attorney General of New Brunswick, Fredricton, N. B.; Arthur MacDonald, Esq., Docent at Clark University, Worcester, Mass.

Proposed by DR. W. P. SPRATLING : Dr. Elliott Gordon, Morris Plains Asylum, N. J.

CORRESPONDING MEMBERS.

Proposed by CLARK BELL, ESQ.: D. M. Darrin, Esq., Addison, N. Y.

Proposed by MR. ISAAC ANGELL : Lander Brunton, M. D., London, England.

A paper on "Dangers of the New Alienism," by A. Wood Renton, Esq., of London, was read by Vice-President Bach.

A paper on "Criminal Aristocracy, or the Maffia," by Arthur MacDonald, Esq., of Clark University, was read by the Secretary, and was discussed by the Society.

The chair was on motion authorized to name delegates to germane societies, foreign and home, and to European Congresses.

The meeting was then adjourned.

WILLARD C. HUMPHREYS,
Secretary.

## JUNE MEETING.

### Presidency of Clark Bell, Esq.

June 10, 1891, Society met at Buckingham Hotel. President Clark Bell in the chair. In the absence of the secretaries Mr. Albert Bach was chosen Secretary *pro tem.*

The following were on recommendation of the executive committee, duly elected :

#### ACTIVE MEMBERS.

Proposed by Clark Bell, Esq.: Donald McLeennan, M. D., Salt Lake City, Utah; F. M. Keener, M. D., Arbeck Seminole Reservation, Dakota Territory; Mrs. Annie Chambers Ketchem, N. Y. City ; Dr. Martin F. Engman, Skin and Cancer Hospital, Fordam Heights, New York.

Proposed by Dr. Di Moise : Dr. Antoine Von Palitschexk, Austria-Hungarian Consul General, N. Y. City.

Proposed by Dr. J. Mount Bleyer: Theodore H. Newland, 305 E. 12th Street.

Proposed by Albert Bach, Esq.: David Tomlinson, Esq.; J. Adolphe Gottlieb, M. D., 338 E. 116th St., 140 Nassau St.

Proposed by Dr. Rafael Ulicia: Dr. Adriano Alonzo Martinez, Conde Aranda 8, Madrid, Spain.

#### CORRESPONDING MEMBERS.

Proposed by Clark Bell, Esq.: Dr. E. Magitot, French Academy of Medicine, Secretary of the Congress of Criminal Anthropolgy, Rue des Saints Peres 8, Paris, France; Dr. Otto C. Leenghi, assistant Laboratory of Legal Medicine, Turin, Italy; Dr. Ange Zuccarilli, Prof. of Legal Medicine and of Psychiatry, University of Naples, Italy; Dr. Agostino Berenini, Prof. Penal Law, Univer-

sity at Parma, Italy; Dr. Sontzo, Prof. Legal Medicine at Faculty of Medicine, 1 Rue Mintigny, Bukarest, Roumanie; Dr. J. Q. Adams, Passadena, California; Signor Guiseppe Azolini, Grazia, Italy; Signor Lugi Borgomanero, Grazia, Italy; Judge Carlo Cesarini, first President Court of Appeals of Lucca, Italy; Signor Luciano Ciollaro, Counsellor of the Court of Cassation, Naples, Italy; Signor Giuseppe Giorgieri, Honorary President of the Court of Appeals; Signor Carlo Lozzi, Procurator-General Court of Appeals, Brescia, Italy; Alexander de Mollenhauer, President of the Tribunal, Varsavia; Signor Emilio Pascale, Advocate-General, Court of Cassation, Rome; Signor Francesco Saluto, Honorary President, Court of Cassation, Italy; Prof. Giuseppe Ziino, University of Messina, Italy; Signor Ugo Conti, Advocate of the Court of Appeals, Bologna; Dr. Emile Eugène Roux, Directeur Prefectur de la Seine Affaires Department, 2 Rue Pigalle, Paris; Monsieur Albert Petrot, Member of the General Council of the Seine Advocate Court of Appeals, Rue Bonaparte 53, Paris; Monsieur Emile Richards, Counsel General of the Seine and Municipal Council of Paris, Rue Demarquay; Dr. H. Dagonet, Medicin en chef honorire des asiles de la Seine, Paris; Dr. Ch. Feré, Medicin de la Salpetrire; Monsier Paul Babut, Chef de Division, Service des alienes Prefectur de la Seine, Avenue Henri Martin 50, Paris.

A paper was read by Dr. Bettini Di Moise, entitled, "The Kock Lymph in Medicine," as investigated by him in a recent visit to Berlin, which was discussed by Dr. Frank Ingram.

A paper was read by Dr. Frank H. Ingram, entitled "Medico-Legal Aspects of Tetanus," which was discussed by Dr. Hubbard W. Mitchell, who cited the case

of Worth *vs.* Worth in support of the views of th author of the paper.

A paper was read by the President, by Prof. Harold N. Moyer, M. D., of Chicago, entitled "Medico-Legal Relations of Abortion."

General discussion followed on the best plans of section work on the proposed sections of Hypnotism, Psychical Research and Reform in Penal Law, the members generally were requested to notify the President or Secretary, and enroll in the section in which members and others took the most interest.

The chair announced the death of Prof. Fordyce Barker, M.D., LL.D., an Honorary Member of the Society, and after alluding to his honorable and valuable life, suggested some action by the body.

Prof. Edward Payson Thwing, M. D., was called upon by the chair, and said:

Fordyce Barker needs no eulogy at our hands. But some recognition of the loss which we have sustained, is properly expected by the constituency of this body, of which he was an honored, as well as an honorary member. Dr. Fordyce Barker was born at Wilton, Me., May 2, 1818, and died of apoplexy, May 30, 1891, in this city. He was fortunate in his education, as he had been favored in his birth. Graduating at Bowdoin 1837, he studied at Chelsea Hospital and later in Edinburgh and Paris. He became professor at Bowdoin when but 27 years of age, but in 1850 took the chair of obstetrics in the N. Y. Medical College. For 22 years he was on the staff of Bellevue, having at the same time a large private practice and acting as consulting physician to five other hospitals.

For six years he was president of the Academy of Medicine, the first president of the American Gynecological Society and president of the Medical Society of the State of New York. He was enrolled also in medical societies in Edinburgh, London and Athens, and a friend of Dickens, Thackery and other literary celebrities. His work on "Sea Sickness" has had a wide circulation, but "Puerpural Diseases," his best known book, has been put into French, German, Spanish and Italian. As a teacher he was erudite and instructive; as a physician, wise, skilful and trustworthy, and as a gentleman and friend, high toned, courteous and winsome. His commanding figure was but the vehicle and livery of a princely soul. "It is difficult," says the *Medical Record*, "to keep within the bounds of sober estimation of the good qualities which make up his well rounded character, and still to do justice to his merits as a friend,

counsellor and brother. As an educated and cultured gentleman he was a type we all delighted to respect and emulate."

"No American physician," says the *Medical News*, "had greater European fame. How often one of the first questions asked of a doctor from the United States, when in Great Britain, or on the Continent, upon his summer vacation was, 'Is Barker coming over?' Loved by friends who knew him best, admired and honored by all at home and abroad, he rests from his labors, but his memory and fame will live probably longer than those of any obstetrician of this or any century."

He received his decree at Paris in 1841, and so has spent fifty years in the pursuit of a profession honorable in itself, and illustrious in the history it has written. To that luminous record Professor Barker has added the luster of his own brilliant career. Not only were the Astors and General Grant and other people of renown among his patients, but he ministered to some whose gratitude and devotion were his only reward. His personal and professional influence was devoted to the promotion of noble charities and to the advancement of medical learning. In private life he was winsome without being patronizing, bland, but not servile. He did not ape the physician who carried a smile said to be worth to him $5,000 a year, but could, if necessary, maintain an imperial reserve that commanded respect, yet with no taint of cynic haughtiness.

A physician who was his intimate friend for 20 years, remarks, "Every one who had any intercourse with him became his admirer. You could not help loving him. I never heard a person say an unkind word of him. Instances of his large heartedness are innumerable. I never knew a physician who could inspire so much confidence in a patient. He was much sought after professionally and socially." He was versatile and many sided. As a gifted musician he was highly appreciated, leading a band of stringed instruments at college, and playing the church organ when residing at Norwich. Dr. Barker was a Christian physician, a communicant for nearly two score years at St. Thomas Church. He was actively engaged till the last and when the stroke of death fell upon him, he quietly remarked, that this to him was the end. He saved others, himself he could not save. Calmly he watched the gradual obscuration of the scenery of life and thought, then passed beyond the shadows to the unfading dawn!

Professor Thwing offered the following minute for adoption:

"The Medico-Legal Society hereby record their profound appreciation of the personal and professional work of the late Fordyce Barker, M. D., LL.D., an Honorary Member of their body and the keen sense of sorrow they feel in the loss of an associate whose co-operation was so cordial and intelligent in the work of Medical Jurisprudence.

*Resolved*, that the above minute be entered upon the records and a copy of the same be forwarded to the family of our honored and lamented friend.

Prof. R. Ogden Doremus in supporting the note and resolution, spoke as follows :

Fordyce Barker, son of an eminent physician, was born at Wilton, Me,. May 2, 1818. He graduated at Bowdoin College, Brunswick, Me., in the class of 1837.

In 1841, after following the hospitals in Boston, Mass., he was advised by his Precepter, Dr. Henry J. Bowditch, of Boston, to be cautious in the selection of his future home, because of a predisposition to pulmonary disease.

Finding that Norwich, Conn,, met the requisitions, he located there in the summer of 1841. His talent was soon recognized, and though the youngest physician in Norwich, he rivaled the best established practitioner of the p

On September 14, 1843, he married Miss Elizebeth Lee Dwight, of Springfield, Mass., at Harrisburg, Penn. In 1844 the way opened for carrying out Dr. Bowditch's wish, that he should go to Paris and take a course there. Accordingly on October 1, 1844, he set sail with his young wife, from the Port of New York, in the good ship St. Nicholas, of 900 tons burden, commanded by Captain Pell.

During the winter of 1844 and '45, he followed the hospitals and attended lectures from very early morn, passing most of his evenings in study for the next day. These studies were interrupted by the severe illness of a loved relative, obliged his return in August.

In 1846, he filled the Chair of Obstetrics in the Bowdoin Medical College. He remained but one year, finding the interruption in his practice disadvantageous. At the invitation of Dr. Horace Breen (to whom the medical profession and the world are indebted for original and courageous method for treating diseases of the throat and lungs) and of my learned Precepter in Medicine, the skilled surgeon, Dr. Abraham L. Cox, an ardent admirer of Dr. Green, and others of us associated in the enterprise, Dr. Barker was asked to become one of the incorporators of the "New York Medical College." We obtained a charter, built the college in East 13th Street, and opened our course of lectures in the Fall of 1850.

A late distinguished member of our Medico-Legal Society, the world-renowned Surgeon Dr. John M. Carnochan, also the late Dr. E. R. Peaslee occupied chairs in our Faculty at a subsequent date.

In 1861, Dr. Barker, with Dr. Isaac Taylor, Jas. R. Wood, Lewis A. Sayre, Geo. T. Elliott, Alex. A. Mott, Benj. McCready, Physicians and Surgeons in Bellevue Hospital for many years, obtained a charter for the "Bellevue Hospital Medical College," and invited Drs. Frank H. Hamilton, a former president of this society, Austin Flint, his son, and myself to aid in the establishment of said college.

Thousands of students have gained instruction from his lips in his department of medicine. Thousands of medical practitioners are proud to have the name of Fordyce Barker on their diplomas. They will never forget his genial manner, as he lucidly and forcibly presented his important themes. His was the recipient of many honors.

In 1861, he returned from Paris with his degree from the Ecole of Medicine of that city. June 20, 1878 Columbia College conferred on him the degree of LL.D.; April 17, 1884, the University of Edinburgh conferred on him a similar honorary degree; June, 1887 he received the same honor from his own College of Bowdoin, Brunswich, Me., at the fifth anniversary of his class of 1837. August 10, 1888, the honorary degree of LL.D., was conferred upon him by the University of Glascow, and at the meeting of the British Medical Association in that city; he being approved by the Very Rev. Principal Caird, Vice-Chancellor of the University.

Dr. Barker was consulting physician to Bellevue Hospital, the Nursery and Child's Hospital, St. Elizabeth's Hospital, the Cancer Hospital, and surgeon to the Woman's Hospital. He was a member of many medical associations, notably the New York Academy of Medicine, of which he was President from 1878 to 1884; the New York County Medical Society, the New York Obstetrical Society, the New York Pathological Society, the New York Medical and Surgical Society, and the Medico-Legal Society, the Medical Society of the State of New York, of which he was formerly President, and the American Gynæcological Society, of which he was the first President in 1876. He was also Honorary Fellow of the Royal Medical Society of Athens and a member of the obstetrical societies of Edinburgh, London, Philadelphia and Louisville, and of the Philadelphia College of Physicians. He contributed to medical literature many lectures and papers, and was the author of a work on "Puerperal Diseases:" which was published in 1874, and was translated into Italian, French, German and Spanish. He was also the author a treatise on "Seasickness."

He numbered among his patients not only our best known citizens, but many more came to his medical shrine from distant parts of our country. General Grant, Roscoe Conckling, James G. Blaine, Clarence A. Seward—the last, his bosom friend and frequent companion in his European trips.

As an expert in medico-legal cases he often appeared in our courts. District-Attorney A. Oakey Hall, sought his services in the trial of Mrs. Cunningham for the murder of Dr. Burdell. Later, when Judge Nelson J. Waterbury held the position of District-Attorney, Dr. Barker, with other distinguished medical men, was asked to appear in the case of James Stephens, the wife poisoner. During the Beecher trial several conference of lawyers were held in his library.

When the horror of the murder of President Garfield, June 18, 1887, was absorbing the attention of the country, Dr. Barker was asked to testify in the Guiteau case. This he at first refused to do; but subsequently on the receipt of a personal request from President Arthur, he gave evidence at Washington, as an expert. It was said that his calmly delivered opinion had much weight with the jury and on the charge of the Attorney-General.

His medical friends in the Old World were many. In Paris, Baron DuBois, Velpeau, Trousseau, Sir Joseph Oliffe, physician to the English Embassy, Dr. Ball, Dr. Apostoli, Dr. Herbert; Sir Spencer Wells, Sir Wm. Gull, Sir James Paget, Sir Henry Holland, Drs. Priestly, Ord, Butler and Duncan of London; Sir James Y. Simpson of Edinburgh; Professor

Gardner of Glascow University ; Proressor Virchow of Berlin ; Dr. Tamburini of Milan, Italy ; Dr. Grant Bry of Cairo, Egypt and many others.

For the last twenty-five years he made his annual trip across the Atlantic to renew his health of body, and mind, and to greet his confieres in Europe. With princely generosity, he reciprocated their attentions and returned them in his hospitable home, when they favored our shores.

For mental relaxation, after being overtaxed wieh attendance on his patients, chess was his favorite game. He revelled in the highest order of classical and operatic music, ane numbered among his friends, Christine Nilsson, Adaline Patti, Adelinde Phillipps, Pareppa Rosa. The Drama was an additional source of pleasure. He was a friend of Charlotte Cushman, Rachael, Ristori, Bernhardt, Booth, Barrett, McCullough, Irving, Salvini and others.

Apart from his medical acquirements, he was a cultured gentleman, familiar not only with the literature of the day, but the personal friend of many of the world-renowned writers in our own, and in foreign lands, as Bancroft, Bryant, Longfellow, Holmes, Donald G. Mitchell, Curtis Thackeray, Dickens and Geo. Elliott.

Dr. Barker was a communicant in the Episcopal Church. Though he never made his religious sentiments obtrusive, around his table were often gathered most eminent clergymen and bishops of his own and of foreign lands. He was a skilled raconteur, and could always match the best story, such were some of his versatile qualities. Harmoniously united in him were gifts and graces, which peculiarly adapted him for the delicate, arduous and sometimes heroic duties of his profession. His presence was winsome and magnetic—it inspired confidence—His benignant smile was a benediction. His attractive face bore a manly stamp—courage tempered with judgment.

"A combination and a form indeed,
Where every God did seem to set his soul,
To give the world assurance of a man !"

He possessed the wonderful gift of intuition whereby he could quickly diagnose, divine and fathom the mysteries of an obscure malady. His mind was fertile in devising original methods of treatment. Professor Simpson of Edinburgh, asked a lady patient where she resided. She replied, New York. Return to New York immediately and consult Dr. Barker, he taught me how to treat such cases as yours. She obeyed his orders, and speedily recovered under Dr. Barker's treatment.

Emergencies stimulated his brain to increased activity—he never lost his self-possession. Like the skillful general who throws defeat into victory, would the genius of this great physician, fight the battle of life with the arch enemy and triumph ! Æsop said, when Prometheus took clay to form man, he tempered it with tears, to show that the life of man is full of miseries.

How many of these miseries are before physicians, alleniated during his professional career ? Our city has lost one of its noblest and most useful citizens. I heard a lady exclaim, "how can New York go on without

Dr. Barker ?" Our land not only mourns, but from abroad, cable messages have been daily ariving with tender expression of sympathy and regret. He was a faithful husband and father, a generous and judicious friend, an illustrious teacher, a beloved physician.

The beautiful thonght of the Hon. Charles Sumner is most appropriate.

There's a star quench'd on high,
For ages would its light,
Still trav'ling dowuward from on high,
Fall on our mortal sight.

So when a great man dies,
For years beyond our ken,
The light he leaves behind him lies
Upon the paths of men !

## Dr. Hubbard W. Mitchell spoke as follows :

My first acquaintance with Dr. Barker began in April, 1864, when I took a patient to him for consultation. The disease for which he was consulted proved to be a fatel one, and Dr. Barker asked me to convey the sad intelligence to her that she could not recover. I shrank from this, and asked the doctor to do it instead, which he did in a way that while it was painful to the patient, it was couched in such sympathetic and kindly terms, as to rob even death of a part of its terrors. At this time I was assistant surgeon in the United States Navy, and my active duties at the seat of war called me from New York, and I did not return again until later in the autumn of 1865.

In April, 1866, I began my career in New York, in the private practice of medicine, and that was to me a time of great anxiety, as it is to most young medical men. I sought the sympathy and friendship of Dr. Barker, and one day called upon him at his office on Madison Avenue. He received me with the utmost courtssy and kindness, and when I told him I had put out my sign for the first time, and had some little anxiety as to my success or failure, as a physician, he reassured me in the kindest terms, and gave me sympnthy and encouragement, which was of great help to me at that time, and which I have never forgotten. His words and his pleasant and friendly manner impressed me deeply, and to this day I can look back with feelings almost of emotion, and gather comfort from them even now. When I hinted to him the possibility of my failure, he told me that I should not fail, and counseled me to earnest and conscientious work, filling each day of my life full of honest endeavor, and let the future take care of itself. "For the time will come," said he, "when you will reap the reward of these early days of struggle, and trial, and long waiting." I well remember that interview which did so much to encourage, and perhaps to shape, in part, at least, my future career.

Dr. Barker, as is well known, was famous as an obstetrican, and I had frequent occasion in after years to consult him upon many points connected with that important branch of our profession. He was always

ready to counsel me and advise me, and I came in time to look upon him almost as a father, certainly as a sympathetic and sincere friend.

As he wrote monographs foom time to time upon his own special branch, he sent them to me with the words written upon the title page, "With sincere regards of your friend the Author." I cherish these monographs even now, and value them as marks of his personal friendship and esteem to myself.

Dr. Barker kindly invited me to his lectures in the Bellevue Hospital Medical College, when he was about to speak upon a subject which he thought might interest me, and I had the pleasure many times of visiting him at his house, and enjoying his personal friendship. His receptions to the profession and others at his house were always delightful and agreeable occasions, and I look back upon many of them, to which I had been invited, with feelings of sincere friendship, for his kindly and cordial greetings, mark a sort of pleasant oasis in the dull monotony of our professional lives. I have met men of note at his house, and three years ago I had the pleasure of meeting Dr. Priestly of London, in his drawing room. No man better deserved success than he, for his genial manner, his affable and affectionate disposition made him liked both by men and women, and I doubt if many men had a larger circle of sigcere friends than did he. If professional success depends upon ability, perseverance, and a kindly genial spirit, a sense of justice, and a desire to do unto others as one would be done by, then Dr. Barker deserved success, and he won it too, in a high degreo. His loss will be deeply felt by all who knew him, but his memory will endure among us, as long as memories are cherished upon earth. When one dies whom we deeply love and revere, while he is gone from us and we do not see him, yet he is felt in our hearts. and we look upon him almost as though he still dwelt among us. Memeries of dear ones seem almost tangible. I need not refer to his life, or his works, or his many deeds. they have been eulogized many times by other, but if we wish to doint to one whose life was well filled with all that makes a man noble, and generous, and kind, we can point with tender and affectionate pride to one who was loved and respected by us all, Dr. Fordyce Barker.

The President read a letter from Prof. Fanueil D. Weisse, speaking in exalted terms of Dr. Barker and regretting his enforced absence from the city, on this occasion.

The Resolutions offered by Professor Thwing were unanimously adopted.

The chair announced the death of Judge Wm. S. Ladd of New Hampshire, and paid a tribute to his life and character, and his career at the Bar, and upon the Bench of the Supreme Court of that State.

The chair alluded also to a rumor that has reached him, although not in any official form, of the death of the distinguished Louis Penard, M. D., ex-President of the Medico-Legal Society of France, and Honorary Member of this Society. While speaking in high terms of the life and career of this eminent French Physician, whose personal friendship he had enjoyed for years, whose guest he had been in Versailles, he preferred to await official notice before asking the body to take formal action.

The society then adjoined for the summer vacation.

ALBERT BACH,

Secretary *pro tem.*

## *EDITORIAL.*

### CRIMINALS BEFORE THE LAW.

The problems of human punishment to those convicted of crime, is now foremost in thoughtful minds. Old ideas of the *deterrent* effect upon others, as preventative of crimes yet to be committed, is passing through more critical and crucial tests among thinkers than ever before.

Should we ignore the human side and human nature of the criminal? How far is there any force in the sarcasm, that it is a false and mock philanthropy, to regard the rights of the one, who has deliberately broken the law?

Is it a fact that punishment of crimes act as a deterent force upon those who commit crimes?

Have we the right, and has society the right, to inflict physical punishment upon offenders?

We recall no writer in any recent time, that ever justified the arbitrary brute physical force, which inflicted punishment in the nature of penalties for violated law, save on the theory, that it was to deter others from a repetition of like offences. Especially in cases denominated as capital offences, where the penalty was death.

None have claimed that punishments could properly be infiicted as a penalty, and to compensate in suffering for offences, as an expiation.

Human punishments can not be justified as merely punitary in their resultant effect, upon the criminal himself or in in any retaliatory sense.

We are forced then to consider the whole structure,

and the foundation stones, on which the system has been built, in English speaking countries, through all the centuries. The foremost problems are :

1. How far does the punishments of criminals actually deter others from the commission of crimes, and

2. What legislation is needed, if punishments are to be inflicted, to make them equal, uniform and well defined, in different jurisdictions for the same or similar offencs.

As at present administered nothing can be more unequal, uncertain and indeterminate than punishment of offenders for violations of law, by different Jndges for the same offense, or offences of similar or equal grade.

No uniform standard has been adopted—imprisonments not exceeding specified terms, fines not exceeding prescribed sums, or both, are construed or applied in sentencing criminals by no two judges alike. Grave offences under strict provisions of law are often thus treated by judges with mild punishment, but still within the limitations of the law; and lesser offences with severe and harsh sentences and extreme penalties. This shocks the public and moral sense and cannot be claimed to act either as a deterrent upon criminals, or the criminal classes, but rather the reverse.

Society has not only the right but it is unquestionably its duty, to study the criminal classes, their environment and condition, and apply punishment accordingly.

It is at too long range, to trust all our influence upon the criminal classes, upon what we term the deterrent effect of the punishments we inflict, upon those who have broken the law.

Let us have the courage to look the question fairly in the face.

Even if its aspect is repellant and the issues distaste-

ful, we do not lessen the evil by ignoring it or fearing to grapple with it

We have been engaged in studying crimes and methods of punishment and their deterrent effect. Let us study now, a little, the criminal, and what is our duty to him, and to his capacity and power to commit crimes, and what steps can be lawfully taken, to avert and prevent crime, by treating the criminal as such and *per se*.

Is it worth our while to inquire, whether severe preventatives are as valuable as doubtful deterrents?

Is the reproduction of criminals such a menace to society, as to justify the stndy of the inquiry of how far it would be safe, prudent and right, to interfere after, say, a second conviction? Should we discriminate between first and second offences and how?

The recent legislation in France as to first offences demands our thoughtful inquiries.

He who is found guilty of a first offence receives his sentence according to the character of his crime, but execution of the sentence does not necessarily follow at once! The court has the power of suspending sentence, and allow the convicted offender to go back again into society. He is, however, under strict surveillance and observation. Should he conduct himself properly for five years, following such conviction, his offence is condoned—he escapes punishment. But if he should within the time again offend, he will not only undergo a new punishment for the new crime, but his former sentence will then be revived andenforced, and he compelled to suffer the double penalty of the broken law. The theory of this law, recognizes as a practical fact, that a first offender, is not necessarily a member of the criminal classes, and he is given an opportunity of retrieving the first false step, which led up to his first

criminal act. This legislation is a step upward and forward, and is in the right direction. We must concede that the effort is humane, and its wisdom must be determined by the result of the trial of its practical working. Human judgments as to public measures are as a ruleof little value at first. The unfailing test is that of trial and experience.

When 150 capital offences were on the English Statute Book it must be acknowledged, that the acts were passed in the firm belief that the severity of the punishment for offences sometimes trival (as sheep stealing) would operate as deterrent to abolish these offences. A greater error it was not possible to commit. The repeal of these laws we now know decreased the volume of criminal acts. The light shed by English history demonstrates that severe and terrible punishments do not, in fact, operate to prevent crimes or as a deterrent. These cases lead us almost to the verge of belief, that such penalties and punishments are not even deterrent. It is very doubtful if they are really so.

It would be unwise and perhaps not humane, to regard the first offense as making the offender a confirmed criminal.

If we follow the French plan which is addressed as we see to the criminal himself, and not by any reflex action to his successor or imitator, we must entertain greater hopes of his availing himself of the opportunity of retrieving his character, as a force in the interest of society and its protection, than his incarceration outside of the whole question, of the expense to the State or the atmosphere of the prison as a moral poison upon the condemned.

This brings us to the more realistic question, of how to treat the confirmed criminal. Those who, by repeated

crimes and a succession of offenses, have placed themselves among what we may properly regard as the criminal classes—the confirmed criminals.

Society has to consider how far she would be justified in taking extreme measures for the protection of the citizen, from the criminal classes regarded as a common foe, and permanent menace to society.

Leaving out of contemplation the question of capital punishment for grave offenses; society would be quite justified in taking such precautions as would render the commission of third or later offenses, impossible by restraints upon the liberty of confirmed and incurable criminals.

The right, after two or at farthest three convictions, and, if thought proper after the enrollment as one of the criminal classes, by a second conviction, would be unquestioned in society to place such restrictions upon criminals as would prevent their procreation,

There would remain only the question of policy in exercising this power as a preventative measure. None could doubt the right of society to thus arrest the standing menace of the propagation of the criminal classes, when thus clearly defined, by suitable provisions of law.

The reconsideration of the whole question is necessary in a broad humane spirit, and it should also be undertaken without any regard to the sarcasms of those who ignore the real questions at stake, by charging, sentimentalily and mock philanthropy, on those who bring forward the subject for open discussion.

There is no force in such criticisms. The issue is a live real one, and must be considered upon its merits.

## INTERNATIONAL CONGRESS OF CRIMINAL ANTHROPOLOY OF 1892.

At the Paris Congress of 1889 the place and date for the next Congress was fixed at Brussels for 1892.

The International Commission for the organization of 1892 is composed as follows:

BELGIUM AND HOLLAND—Semal, Prins, Heger, Houze, Desmettes, Lejeune, Van Hamel, Ten, Kate.

ITALY—Moleschote, Sergi, Ferri, Mayer, Lombroso, Garofalo.

FRANCE—Roussel, Brouardel, Lacassagne, Magitot.

SPAIN—Taladeriz.

UNITED STATES—Thos Wilson, Esq.

PORTUGAL—Ferraz deMacedo.

AUSTRIA AND HUNGARY—Dr. Benedikt.

RUSSIA—D. Drill.

ROUMANIA—Dr. Soutzo.

SWITZERLAND—Prof. Gosse, Dr. Ladame.

SWEDEN—Dr. Retzius.

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## JUDGES INFLUENCING JURIES.

The Judge upon a trial administers the law of a case to the Jury who are bound to receive it as he gives it.

The Jury are the sole judges of the fact of a case, and any attempt even to influence, or mould their verdict by the Judge is in violation of the law as well as of judicial decorum.

A Judge must conceal from the jury what his views or opinions upon the fact from the evidence is, and it is the highth of judicial impropriety to give the jury any clue to the opinion of the Judge, much less to state it to the jury.

Mr. Justice Daniels, who writes the opinion of the General Term of the Supreme Court in the First Depart-

ment, in a receut case, voices the public sentiment of Bench and Bar, in this country upon this subject:

"The practice of judges expressing their opinion on the evidence in the course of the trial or in the submission of the case to the jury should be disapproved. It has been excused and tolerated, but never commended. It is a departure from the province of the judge and an encroachment on that of the jury and often an injury to a person whose guilt is in doubt. The practice is wrong and should be avoided."

We would consider, from recent prominent cases, in England, that a different rule obtained there. Notably the Maybrick Case, the Baccarat Scandal Case of Sir Gordon Cumming and a recent case affecting Lord North. We quite agree with the view taken editorially by the *N. Y. Herald* upon the subject, who in commenting upon Judge Daniels opinion says:

"That expresses a fundamental prineiple of American law and practice. The jurors are the judges of the facts, and on the evidence submitted they are to determike the guilt or innocence of the accused. A judge on the bench has no business to express an opinion on this question or to intimate what the nvidence does or does not prove. Biassed charges, such as those often made to juries in England, would in this country be good ground for setting aside a verdict."

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### INTERNATIONAL UNION OF CRIMINAL LAW.

This Congress meets on August 15, 1891, at Christiana, Norway.

Dr. Selden H. Talcott will be one of the delegates to that body from the Medico-Legal Society, and otaers who visit Scandanavia this summer may meet our confreres in that interesting country.

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### JUDGES GOWNS.

Some criticism has been made upon the organization of the new Court of Appeal in the Federal Court, the Judges of which appeared with Judge Blatchford, presiding in judicial robes.

We see no reason for criticism, and quite approve of the action. The new Court sits as a relieving Court to

the Supreme Court of the United States and will perform, all over the nation, much of the labor which otherwise would fall upon that Bench.

It is in many respects almost a part of that body.

The question whether Judge Blatchford should remove his robes when as a member of the Supreme Court of the United States he sits, under the law in this Court, or that his associates should put them on, seems hardly debatable.

We hope the practice will be adopted by all the courts organized under the new law.

The robing of the New York Court of Appeals gave universal satisfaction, and if it were followed by the judges in the several departments at General Term, it would, we think, meet with universal favor at the Bar.

## PERSONAL.

Prof. Edward Payson Thwing, M. D.

In a list of papers contributed to the Academy of Anthropology, founded by Prof. Thwing, we find the following read by him before that body.

"Inaugural Address, 1883. The Rosicrucians. The Work Before Us. The Involuntary Life. American Business Life. The Philosophy of Disenchantment. Is the Supernatural Unnatural? Somnambulism and Hypnotism. Criminal Anthropology. Mental Automatism (Taking th Academy Prize, $50). The Utility and Scope of Psychological Studies Medical and Surgical Science in China. Life among the Japanese,"

In the same list we find titles of papers read before that Academy by the gifted and versatile editor of *The Journal of Inebriety.* Dr. T. D. Crothers, of Hartford, Conn.

"The Heredity and Psychic Features of Inebriety. Inebriety and Civilization. Frontal Region of Insanity and Inebriety. *Psychological Heredity. Some New Facts in Alcoholic Heredity."

Also from the leading editorial writer in the *Journal*

*of Phrenology.* Henry S. Drayton, M. D., L. L. B., New York.

'The Prehistoric Man, His Age and Relation to the Ape. Physiogonomy and Parentage. The Sixth Sense. What to Do with our Criminals. Is the Suicide Necessarily Insane? Labor Conflicts. Recent Testimony of Science in the Determination of a Criminal Type of Brain Organization. A Short Study of the Modern Chinaman. The Evolution of a Sixth Sense. Education *vs.* Heredity in Forming and Reforming the Criminal."

Prof. Roland P. Falconer, of Philadelphia, goes out as a delegate from the Medico-Legal Society to Germane Societies in Great Britain and on the continent of Europe, as does Dr. Selden H. Talcott, Med. Sup't of Insane Asylum at Middletown, N. Y., and Dr. W. P. Spratling, Assistant Physician at the New Jersey State Insane Hospital at Morris Plains, N. J.

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**BULLETIN OF THE INTERNATIONAL MEDICO-LEGAL CONGRESS OF 1889.**

After some unavoidable delays this volume has been completed, and is now in the hands of the binder. Members of the Congress who have not already remitted for the volume will please send the same at once.

We hope to place it in the hands of subscribers before the next issue of the JOURNAL.

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**PRIZE ESSAYS.**

The first volume of prize essays is now ready for delivery to subscribers. The edition was small. Those who desire copies at 75 cents each in cloth, will send in their names to the JOURNAL.

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The Committee of award have not yet made final decision on the essays submitted. The delay seems unavoidable

## THE NEW YORK LIFE INSURANCE COMPANY.

There is not the slightest occasion to doubt the solvency of this company, and a full investigation will only show its excellent management.

The dishonesty of one of its trusted agents, with whom as a necesity of the business, large open accounts were kept, may result in the present loss to the company of a few hundred thousand dollars, without any perceptible effect upon its enormous capital, and this may not be a loss in time.

The assault upon President Wm. H. Beers on this account is quite groundless, and is doubtless largely personal.

No human foresight can guard the great corporations, against losses of this character, and personal assaults upon the Presidents are as cruel as unfounded.

Beneath it all is a great lesson, and an unsolved problem.

The lesson is how easy it now is, to place any of these great corporations under the enormous expense of an investigation, which is supposed to cost large sums, to the profit of a select few.

The problem is. How far is it prudent or wise for the State to allow the accumulation of such enormous sums as the great companies now have as capital beyond $100,000,000?

Is there no danger to the State, no menace to our institutions in these enormous accumulations?

At the ratio of increase shown by the Mutual, the Equitable, the New York life in the past decade where should be the limit of the accumulation of capital, beyond which the law of the land should forbid any of these corporations to issue further policies?

Such a power as will be placed in the hands of the

managers of either of these great companies, at the end of twenty-five years more, increasing in their past ratio would be a menace to our system of government, and should not be permitted by law.

The men now in charge are safe, wise and conservative, but who are to succeed them?

And who are to manage, and how are these vast sums to be used, if at all interfering with National and State affairs is a problem pregnant with interest to every statesman—the consideration of which cannot much longer be delayed by our law makers.

### MEDICO-LEGAL SOCIETY OF MASSACHUSETTS.

At the annual meeting held June 9th, the following officers were elected: President—Dr. F. W. Draper, Boston; Vice-President—Dr. Z. B. Adams, Framingham; Treasurer—Dr. C. C. Tower, Weymouth; Corresponding Secretary—Dr. B. H. Hartwell, Ayer; Recording Secretary—Dr. Thos. M. Durell, Somerville.

### MEDICO-LEGAL SOCIETY OF CHICAGO.

At annual meeting June 6th, the following officers were elected: President—Judge O. H. Horton; 1st Vice-President—Dr. D. R. Brown; 2d Vice-President—Dr. James Burny; Treasurer—Dr. Joseph Matteson; Secretary—Dr. Archibald Church.

### VITAL PHENOMENA AFTER DECAPITATION.

The Boston *Medical and Surgical Journal* publishes the following:

Laborde noticed the following phenomena in the head and body of the notorious Eraud immediately after decapitation by the guillotine.*

Immediately after the execution there was noted marked corrugation of the forehead extending to the vortex; associated ocular movements; opening and shutting monement of the mouth of a respiratory type. The palbebral reflex could be plainly evoked for from fifteen to twenty minutes after decapitation, during which time the iris remained sensible

* Correspondence of the Journal American Medical Association.

to the stimulus of light. Simultaneously with the placing of the trunk in the basket there were noticed up and down movements of the arms, plainly visible despite the fact that they were firmly ligatured to the sides. This phenomena is, it appears, well known to Diebler's assistants, who, in their figurative language denominate it "the flapping of the wings." The feet were strongly retracted, and when M. Laborde pinched the arm, the trunk being in the basket, a reflex movement was very apparant. As M. Laborde remarks, these reflex movements are strictly analogous to those perceived in the abattoirs, where the stimulation of a member immediately after falling produces a violent kick.

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## THE SECTION ON PSYCHICAL RESEARCH.

The initiatory steps for the formation of this Section only have been taken.

A committee who will have it in charge will shortly be announced. The following names have been already enrolled :

B. O. Flower, Esq., editor *The Arena*, Boston; Mrs. C. Van D. Chenoweth, Professor English Literature, Brooklyn, N. Y.; Clark Bell, Esq., N. Y. City; Dr. Chas. E. Hughes, Alienist and Neurologist, St. Louis, Mo.; Edward Payson Thwing, M. D., N. Y. City; Willard C. Humphreys, Esq., N. Y. City.

Members, subscribers or others wishing to enroll in this Section will forward their names.

Members of the Society, taking an interest in this branch of inquiry, will confer a favor by bringing in to the Section those who wish to join in these investigations.

# Journals and Books.

BULLETIN OF THE PARIS CONGRESS OF CRIMINAL ANTHROPOLOGY. (1890).

This work published by A. Storck, Lyons, France, has just reached us, and is a large volume of 540 pages. It contains a list of all the officers and members of the Congress, a list of the 43 contributions made to the Congress, a record of the debates, and a record in *extenso* of the twelve different sessions of the Congress, over which Senator Theophile Roussel was made President, with seventeen Honorary Presidents, of whom four were from France, seven from Italy, and one each from Belgium, Holland, Spain, Switzerland and the United States.

The volume contains the principal papers read before the Congress, and the discussions upon the same, and is in all respects the most important contribution to the science of Criminal Anthropology in recent years.

LAW QUARTERLY REVIEW. (London.)

A. Wood Renton, Esq., contributes an able paper on the "The Law of Patent Rights in America and England," contrasting their practical results upon inventors, and the patent offices, in which he concludes that:

"In at least three of the essential characteristics—its conception of patent right—its preliminary examination into novelty—and its scale of taxes—the patent system of the United States is superior to our own."

An American patent lasts seventeen years and costs the inventor $35. An English patent lasts fourteen years, and costs £154, nearly thirty times as much.

THE LONG ISLAND COLLEGE HOSPITAL.

The announcement for 1891 presents superior attractions to medical students.

DR. LUCIEN PUTEAUX (REPORT ON THE PARIS CONGRESS OF 1859.)

In August, 1889, on the occasion of the visit of the delegates, to the scientific bodies then in session in Paris (and notably the Congress of Mental Medicine and on Hypnotism) to the French Insane Asylums, the Commission of Inspection of the Public Asylums in the Department of the Seine, authorized Dr. Lucien Puteaux, one of the prominent members eminent among French medical men and Secretary of the Commission of Inspection, to prepare and publish a full report, in behalf of the commission, of which Judge Jules Claude Barbier, then Premier President of the Court of Cassation was Chairman.

This Report, beautifully bound and illustrated, has been sent us.

It contains an account of the visits made by the delegates of the Society of Mental Medicine to St. Anne and the asylum at Villejuif, of the speeches made at the breakfasts given at each, of the visits of the Congress upon Hypnotism to the same institution, the later visit to Salpertriere, and the

Bicetre, and the reception at the Hotel Dieu with a list of the officers and members of each of these Congresses, and reflects great credit on Dr. Puteaux for the creditable manner in which he presents this charming souvenir of those interesting events.

The speech of Mr. Clark Bell, at the Banquet at St. Anne, is given in both English and French.

The Report contains as an appendix, plans and views of the asylums of St. Anne, Villejuif, Ville, Evrard and of Vaucluse.

THE JOURNAL OF JURISPRUDENCE. Edited by JOHN CHRISHOLM—Advocate and published by T. I. Clark, law publishers, Glasgow, at one shilling sixpence a number, ia well wortn the subscription price to any lawyer. The June Number, 1891, contains many items of interest.

Considerable space is given to American legal affairs, and quotations made from American journals, all of which are given full credit. A writer in the May Number, 1891, contributes an able paper on the Administration of Criminal Law under the Cæsars, which gives an interesting sketch of St. Paul's relation to that era, as illustrating the practical working of the criminal law among the Romans at that time.

MEDICAL JURISPRUDENCE AND TOXICOLFGY. BY PROF. JOHN J. REESE, M.D. P. Blakniston, Son & C., Phila., 1891. Third Edition.

The success with which Professor Reese's work was received, as a text book for students and a hand book for practitions made its reproduction in succeeding editions only a work of time, and as shown by the sequel, of very short time at that. There are many parts of the work that are simply touched upon, but that touch is that of a master. What the New York *Sun* is to journalism, his last work is to Medical Jurisprudence. It is an admirable condensation of the sum of our present scientific knowledge on the headings. and those relating to Medical Jurisprudence and Toxicology.

There are many of the chapters of the book models of terse, succinct learning, that would be admirable reproduced as separate essays. Among these I should name, "Phenomena and Signs of Death," "The Post-Mortem in Medico-Legal Investigations," "Death by Hanging," "Infanticide."

His chapters on Poisonings, treat of all the known agents, and are of great value, my appreciation of the excellence of this work may best be shown by the reproduction in this number of the Journal of two chapters of his book, one on "Presumptions of Death and of Survivorship," and one his treatment of "Poisoning by Iodine, Bromide and Chlorine," as illustrations of his style, and method of handling questions from the standpoint of compressing in one small volume the present sum of human knowledge upon the leading questions of Forensic Medicine, for instant use and immediate reference.

BULLETIN OF THE BRUSSELLS SOCIETY OF ANTHROPOLOGY. 8th volume, 1889-1890.

This volume is a record of the transactions and labors of the Society, for the year commencing with the March Session of 1889, under the Presidency of Monsieur E. Van Overloop. It is handsomely illustrated, as many of the papers read are accompanied with plates. It embraces the discussions, list of officers and members, and is a very important contribution to the science of Anthropology. to which the Society is devote d

LE LABORATOIER DE TOXICOLOGIE. BY J. B. BALLIERE ET FILS, Paris 1891.)

Prof. Brouardel and J. Ogier, director of this laboratory, make in the nature of a report to the chief of the Paris police a complete account of the labors of the laboratory since its actual foundation in July, 1883, with a statement of the causes that led to its establishment, its methods of work, and the part it has played in relation to medico legal studies and the administration of justice in France.

The work, a volume of 224 pages, is the most valuable recent contribution to the science of medical jurisprudence from any single source.

The work ia divided into two parts. The first treats of the methods employed is the Paris Laboratory, on autopsies and the treatment of bodies submitted for inspection, and the various chemical and toxicological studies employed, including a very interesting chapter on blood stains, and the employment of the photograph in the laboratory.

The second part contains a series of short papers from Brouardel, in whose charge the laboratory is, of Ogier, the director of the laboratory, and of such observers as Lafon, Pouchet, Vulpian, Schutzenberger, Minovici, Epagnon, Dezille, Loye, Bertrand, Cherbuliez, Brociner, Bordas, Bougier, Palenko, Popoff, and others on medico-legal questions of great interest and value.

We hope in the near future to reproduce some of these papers, and to advert to the labors so valuable to medico-legal science, and so creditable to France, and the eminent men who superintend and conduct the work in connection with the Paris morgue.

# Books, Journals & Pamphlets Received.

Open Court Publishing Company, Chicago.—The Soul of Man, by Prof. Paul Carus. Price, $3.00. )1891.)
Fundamental Problems. Price, $1.50. (1891.)

F. A. Davis, Publisher, Philadelphia, Pa. Heridity Health and Beauty. Shoemaker. (1890.)
Fever, by Hare. Price, $1.25. (1891.)
Medical Symbolism, by Sozinsky. Price, $1.00. (1891.)

P. Blakiston, Son & Co., Philadelphia. Reese Med. Jurisprudence, T Toxicology, third edition. (1891.)

Ch. Blanc.—Prefect de la Seine, France. Report of Dr. L. Puteaux, on Paris Congress, respecting the female insane asylums.

Bryant Publishing Co., New York. A Secret Institution. (1890.)

Jas. B. Lyon, law publisher, Albany, New York, (1891.)—The Incorporative Laws of New York, by Frank White, Esq.

Christian League for Promotion of Social Purity. Constitution, By Laws and official addresses, 1891.

Dr. Fred. Bateman.—Hypnotism, with criticism on recent experiments at La Salpetrierre.

The Thirteen Club, New York.—Ninth Annual Report. (1891.)

Victoria C. Woodhull.—The Human Body, the Temple of God. (1890.)

London Society.—Science, Letters and Art. Vol. 2, No. 2. Journal. January, 1891.

Dr. August Ford.—Fall. Von Sponlanem. Somnambulismus.

Evangelical Alliance.—Twenty-third Annual Report. (1890.)

Dr. E. Magitot.—Bulletin. Second International Congress of Criminal Anthopology of Paris. (1889.)
A Storck Lyon. (1890.)

Dr. Wm. Smith.—Annual Report of Health Officer of Port of New York. (1891.)
Supreme Court of New Jersey Charge of Judge Garrison on Insane delusions.

Nicholas Senn, M. D., Ph.D.—Away with Koch's Lymph.

C. F. MacDonald, New York.—Second Annual Report of the State Commission in Lunacy.
The Execution of Wm. Kemler.

George Thomas Jackson, M. D.——A Dermatological Bibliography.

Jobez Hogg, M. D.—A Search for a Characteristic Organism of Cancer.
Ought Hospital Patients to Pay?

John Punton, M. D.—The Social and Medical Aspects of Insanity.

Nursing Record Series, London.—Norris's Nursing Notes.
Practical Electro-Therapeutics.
Message for Beginners.

Chauncey B. Ripley, L.L. D.—An Address on the subject of Improved Roads.

Insane Asylum.—Basel. Report for 1890.

Washingtonian Home.—Thirty-third Annual Report.

F. A. Davis, Publisher, Philadelphia.—Purdy on Diabetes.

Jaees Thin, Publisher, Edinburgh.—The Intra-Cranial Circulation, by Cappie.

William Thornton, Boston.—Origin, Purpose and Destiny of Man.

Albany Medical College.—Announcement for Session 1891-2.

Union League Club, New York.—Annual Report.

Charles Jewett, A. M., M. D.—Manual of Childbed Nursing.

Charles A. Oliver, M. D.—History of a Case of Sarcoma of the Germ of the Corpus Callosum.

## *MAGAZINES.*

THE COSMOPOLITAN JOHN BRISBEN WALKER, Editor. This journal is ably edited and beautifully illustrated.

Among the artists whose names are attached to the illustrations. We especially remark : J. O. Davidson, C. H. Johnson, Harry Fenn, A. B. Wenzell, Durand Chapman, and Fredrick Renington.

THE GREEN BAG.—The July number out earlier than us has a portrait of the late James T. Brady. A review of the old Bar of Maryland by EUGENE L. DIDIER with portraits. We desire to give our best thanks to the Editor of Green Bag for favors in regard to the Rhode Island judges for portrait of Judge Wilbur and ior sketches of some of the judges.

THE AMERICAN LAW REVIEW.—The recent number of this able journal contains, besides articles from Chas. E. Fenner, Esq., Geo. A. O. Erost, Esq., Prof. Henry B. Hurd, Geo. H. Smith, Esq., G. H. Knate, Esq., an esasy by Robert H. Marr, Jr., on "The New Orleans Maffia Case."

It is ably edited, and is one of the best of law journals on our side the Atlantic.

THE SCOTTISH LAW REVIEW.—WM. HODGE & Co., Glasgow Publishers. This journal now in its 7th vol. is well edited, though by whom is not given. Besices the review each number contains a posture of the correct volume of Sheriff Court Reports separately paged so, to be by themselves in a volume.

It evidently has a fine circulation among the Scotch Bar.

REVUE INTERNATIONALE D'ELECTROTHERAPIE.—Founded and edited by Dr. George Gautier, and an able corp is published monthly at Paris, France. It is the organ of the French Society of Electrotherapie and of the French Society of Dermatogie and Syphiligraphie and coats to stranges 6 francs per annumn.

THE JURIST.—Much more space is given in this journal to editorial comment, and the change is decidedly to the credit of the journal.

An interesting incident in the Life of President Abraham Lincoln is given without any credit to the authorship certainly a reprint, also an admirable article on a visit to an English Police Court without clue to its authorship.

THE STRAND MAGAZINE.—Has embarked in the task of reforming acknowledged abuses IH the Legal System in Englend.

The law journals hesitate to support the charges as made.

It charges that the old and infirm judges hire their work done by Briefless Barristers at one-fifth of their salary and pocket the difference.

THE LONDON GLOBE.—Has a column on legal matters headed "Wig and Gown" which merits wide reading by lawyers for its excellent points.

THE NORTH AMERICA REVIEW.—This journal is splendidly edited, and its contributors are selected with the greatest skill.

LIPPINCOTTS.—This journal publishes a short and able article of Edwin Checkly introducing a series of contributions on his new theory of Physical Culture.

Mr. Checkly's paper is scholarly, and he seems to be one of those writers who has something to say, and who knows how to say it. We shall take occasion to refer to his system later on.

ECLECTIC.—Edited by E. R. Pelton. The last number contains some admirable selections among which we note:

"Chemist in the Suburbs," by Fredrick Wedmere. "Warfare of the Future," by Archibald Forbes, and "A basis of a positive Morality," by P. G. Hammerton.

THE MONIST edited by Paul Carus. Michael Schwab writes to Prof. Lombroso. James Sully, on "Thought and Conception." Moncure D. Conway, on "The Right of Evolution," and Prof. Carus, on "Criterion of Ethies an Objective Reality."

## THE SUPREME COURT OF RHODE ISLAND.

The Charter granted by the English Parliament to Roger Williams, was the basis of all lawful power in the colony he founded in Rhode Island.

When the reprosentatives of the people met in General Assembly in 1647, at Portsmouth, twenty years after the May Flower landed at Plymouth, that body adopted this Charter and under its provisions, organized a form of government that established a general court for trials, which prior to the establishment and organization of the present Supreme Court of Rhode Island, exercised the highest judicial powers and authority. Among the earliest names of those who sat upon that Bench were Roger Williams, William Coddington, John Clark, Samuel Gorton and other eminent men of Rhode Island.

This court was itinerant in its sessions, and the smallness of the State made it more convenient, to sit in all the different larger towns of the colony.

Its jurisdiction was at first purely original, in the cases too important to be tried before the town officers, and it had exclusive jurispiction of high crimes and felonies.

In 1651, it was constituted a court for the review of all cases tried by the jndicial authorities of the respective towns, except high crime and misdemeanors, and the powers of the court and its method of procedure were defined and regulated by legislative enactments. In 1663, a Royal Charter was granted the colony of Rhode Island, which vested all the powers of the Government in the governor, a deputy, ten assistant depu-

ties, who when convened, constituted the Legislature of the Colony, as a General Assembly, and under this charter that body, was clothed with full power to organize the judiciary without any restriction.

In the exercise of the powers thus conferred by the Royal Charter, the First General Assembly convened under it; established a General Court, which was called a "General Court of Trials," which held two session each year at Newport, and which exercised the powers of the Supreme Court of the Colony, until its re-organization in 1829. This court was composed of the Governor, or his deputy-governor, with at least six out of the ten assistants.

There was no salaries paid to these officials acting as Judges, and the better accounts show, that the practical working of this court was crude and unwieldy. The General Assembly reduced the number of assistants necessary to constitute a quorum to three, provided for fining those who did not attend, and paid a small gratuity to those who attended.

The practical working of this unwieldy court, which was presided over by the executive, or his deputy who were frequently neither lawyers nor men of judicial training gave dissatisfaction. The assistants were, it is true, provided to be elected by the people of the towns, but the old system of town courts was superseded, and the administration of justice placed upon a lower standard, than under the older charter.

It was not, however, until 1729, that the re-organization of the colony was effected, by dividing it into three counties in each of which a civil and criminal court was established, having original jurisdiction in all civil cases and in all criminal trials except in capital cases.

The higher court under this system became a Court of

Appeals, or review from the inferior county jurisdictions, having original jurisdiction only in capital cases. It was styled "The Supcrior Court of Judicature Court of Assize and General Gaol Delivery."

This should be regarded as the beginning of the Supreme Court of the Colony, for under the system that had hitherto obtained, under the Royal Charter no decisions were reported and no record kept of important cases. The Governors and their deputies were selected for political considerations rather than judicial fitness, and it was not until the Act of 1729, more than a century after the landing of the Pilgrims that this court was properly organized as such. The court as then constituted was not yet any part of the Colonial Goverment.

Under the period of the charters the Upper House of the Colonial Legislatnre constituted the Superior Court, and as such exercised judicial, as well as legislative powers.

It was not until 1847 that the judiciary of Rhode Island was recognized by Act of the General Assembly, as a separate branch of the Colonial Government. This act, revolutionized, and substantially re-organized and established the Supreme Court of the State, to consist of a chief justice and four associates, to be annually chosen by the General Assembly, and enacted that two sessions of the court should be held annually in each county. In 1780, the General Assembly enacted that no member of either house should sit upon the Supreme Bench, and it was not until 1779, after the Declaration of American Independence that the court received by legislative enactment the title of "The Supreme Judicial Court."

The authority, which was vested in the General Assembly of Rhode Island by both the charters, was absolute in judicial matters and this power was con-

tinually exercised in part by one brach of that body. It is for this reason that the Legislature exercised appellate jurisdiction in cases arising in the Probate Courts, and from the Governor and council, until near the close of present century, when it was transferred by the General Assembly to the Supreme Court in 1822.

The body retained jurisdiction in cases of divorce as late as 1843, when the new Constitution was adopted.

By judicial construction as late as 1856 it was held, that all judicial powers had been transferred to the Supreme Court, and that since the adoption of the Constitution of 1843, the judicial powers and authority of the State was transferred to the judiciary of the State. The equity jurisdiction was transferred by legislation in 1847, following the adoption of that Constitution, and since 1847 the court has been designated as "The Supreme Court."

Prior to 1875 there were but four judges, but since then there have been five.

The judges are elected by the two Houses of the General Assembly and if elected at its annual session for the election of public officers hold their office for life or during good behavior.

The General Assembly have the power by a concurrent vote of the two houses by a majority vote of all the members of each house, to remove a judge from the bench, a power which, however, has never been exercised.

The court designates two of its members to hold the Courts of Common Pleas in the several counties of the State, and the court holds two terms each year in each county.

The Court of Common Pleas thus composed has concurrent civil and criminal jurisdiction with the Supreme

Court, and by the choice of the court, this business is done as a rule in the Common Pleas.

The salary of chief justice is now $5,500 and of the associates $5,000.

One judge constitutes a quorum of the whole court for many purposes, and two judges for all purposes. Since 1847 its decisions have been reported.

The present court is composed as follows :

Chief Justice Thomas Durfee who has been upon the bench more than 25 years, 16 of which he has been chief justice and associate justice. Charles Matteson, John H. Stevens, Pardon E. Tillinghast and George A. Wilbur.

The following have held the position of chief justice of the State :

Gideon Cornell, May, 1747 to May, 1749; Joshua Babcock, May, 1749 to 1751; Stephen Hopkins, May, 1751 to 1755; Francis Willett, May, 1755 to May, 1756; Stephen Hopkins, August, 1756; John Gardner, May, 1756 to 1761; Samuel Ward, May, 1761 to 1762; Jeremiah Niles, May, 1762 to August, 1763; Joshua Babcock, August, 1763 to May, 1764; John Cole, May, 1764 to 1765; Joseph Russell, May, 1765 to June, 1767; James Helme, June, 1767 to May, 1768; Joseph Russell, May, 1768 to June, 1769; James Helme, June, 1769 to 1770; Stephen Hopkins, June, 1770 to August, 1776; Metcalf Bowler, August, 1776 to February, 1777; William Greene, February, 1777 to May, 1778; Shearjashub Bourn, May, 1778 to 1780; Jabez Bowen, —— —— —— ——; Paul Mumford, May, 1781 to June, 1785; William Ellery, June, 1785 to May, 1786; Paul Mumford, May, 1786 to June, 1788; Othniel Gorton, June, 1788 to May, 1791; Daniel Owen May, 1791 to June, 1795; Peleg Arnold, June, 1795 to 1809; Thomas Arnold, June, 1809 to May, 1810; Peleg Arnold, May, 1810 to 1812; Daniel Lyman, May, 1812 to 1816; James Burrill, Jr., May; 1816 to 1817; Tristam Burges, May, 1817 to 1818; James Fenner, May, 1818 to 1819; Isaac Wilbour, May, 1819 to 1827; Samuel Eddy, May, 1827 to June, 1835; Job Durfee, June, 1835 to May, 1848; Richard W. Greene, May, 1848 to November, 1854; William R. Staples, November, 1854 to March 7, 1856; Samuel Ames, 1856 to 1866; Charles S. Bradley, 1856 to March, 1868; George A. Brayton, March 13, 1868 to 1875; Thomas Durfee, January, 1875 to March 14, 1891.

Since the foregoing was written Chief Justice Durfee has resigned by reason of failing health.

## *THOMAS DURFEE.*

### Late Chief Justice.

For three generations the family of the late Chief Justice has had a representation upon the Rhode Island bench. The son of a chief justice of the Supreme Court, and a grandson of the chief justice of the Court of Common Pleas for Newport County, Judge Durfee inherited a judicial mind, and was brought up in an atmosphere adapted to prepare him for judicial service. Born at Tiverton in 1826, his boyhood days were spent along the shores of Narragansett Bay, amid scenes of natural beauty and historic interest. He graduated with honor from Brown University in 1846, and after studying law for two years in Providence, was admitted to the bar. In the year following he was appointed reporter of the decisions of the Supreme Court. His judicial service began in 1854, when he was elected an assistant magistrate of the court of magistrates of the City of Providence,—a local court of inferior jurisdiction. From 1855 to 1860 he was presiding magistrate of this court. During the early years of his professional life he wrote jointly with Joseph K. Angell a "Treatise on the Law of Highways." He was a representative in the General Assembly in 1863, Speaker of the House in 1864, and State Senator in 1865.

The literary instinct so strong in the elder Chief Justice Durfee descended to the son. During the Rebellion he was a frequent contributor to the papers, and his pen was powerful in snpport of the Union cause. In 1872 he published a small volume of poems. His literary talent has given to his judicial opinions a perfection of style that is not too common in judicial writings. He is a devoted lover of Rhode Island,—her people, her institutions, and her history. His "Thoughts

on the Constitution of Rhode Island" is a good example of his powers as a controversialist, and is a vigorous defence of the institutions of the State. In his oration delivered at the two hundred and fiftieth anniversary of the founding of Providence, Judge Durfee made a masterly defence of the conduct of Roger Williams while a resident within the Massachusetts Colony. Perhaps no better example could be given of his style as a writer and of his skill and power in argument than that part of his oration which deals with the controversy between the founder of Providence on the one side and the clergy and General Court of Massachusetts on the other. His "Gleanings from the Judicial History of Rhode Island" illustrates his style as a writer of narrative, and his skill in investing the commonplace with the charm of fiction and the dignity of history. The characteristics of the early bench and bar are faithfully delineated, and the trial scenes of the olden times are vividly and picturesquely portrayed. His discussion of the changes in the character of the business coming before the courts, and in the methods of the bar in the trial of causes, shows him to be a close observer and a discriminating critic in whatever pertains to the administration of justice. The State reports abound in examples of his powers as a writer of judicial opions, his contributions to the Reports exceeding those of any other judge in the history of the court.

Judge Durfee's term of service on the Supreme Court bench extended over a period of more than twenty-five years, for a little more than fifteen of which he was chief-justice. In appreciative recognition of his long and valuable services to the State, and as a mark of the esteem in which he is held by the profession, the members of the Rhode Island bar have recently arranged

for a portrait of Judge Durfee to be placed in the law library of the State. He has recently resigned by reason of failing health.

The present Cssociate Justices of the Supreme Court are Charles Matteson, John H. Stiness, Pardon E. Tillinghast, and George A. Wilbur.

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## *CHARLES MATTESON.*

### Associate Justice Supreme Court.

Charles Matteson, son of Asahel and Julia M. [Johnson] Matteson, was born in Coventry, R. I., March 21, 1840. His early education received in public schools in Warwich and Coventry, R. I. Prepared for college in part at Providence Conference Seminary, now Green wich Academy, in East Greenwich, R. I., and in part at University Grammar School in Providence, R. I. Entered Brown University in Sept., 1856, and graduated in Sept., 1861; receiving on graduation the degree of Master of Arts, at that time conferred by the University on graduates taking the full four years course. Entered the office of Hon. Wingate Hayes, U. S. District Attorney for the District of R. I., and began the study of law, October 15, 1861; remained as student in that office until Sept., 1862, then entered Harvard Law School in Cambridge, Mass., and remained one year. In Sept., 1863, resumed the study of law in the office of Mr. Hayes, and was admitted to the bar of R. I., Jan., 9, 1864. Began practice of the law on his own account, and continued so to practice until April 1, 1865. Then formed a partnership with Wingate Hayes under the name and style of Hayes & Matteson to continue three years. This partnership continued, however, until July 1, 1871. Then resumed practice on his own account and

continued in practice until March 1, 1875. Though engaged in general practice, gave attention specially to the law of real estate and corporations. Was elected by the General Assembly of the State of R. I., in grand committee, an Associate Justice of the Supreme Court of the State, Feb. 11, 1875; took the oath of office, Feb. 27, 1875, and entered upon the discharge of his duties as Associate Justice, March 1, 1875, and has continued in said office to the present time. Served in the General Assembly of R. I., as Senator from the Town of Coventry for the years 1871–72–73. Then removed from Coventry to Providence, where he has since resided. Married August 22, 1872, Belle Himes of Warwick, R. I. There are three sons of the marriage.

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## *JOHN H. STINESS.*

### Associate Justice Supreme Court.

John H. Stiness, son of Philip B. and Mary Stiness, was born in Providence, R. I., August 9, 1840. He was educated in the public school and University Grammar School, entering Brown University in 1857. Near the close of the Sophomore year, in 1859, he accepted the position of Principal of the Hopkin's School in North Providence temporarily, intending to return to college in the fall, but remained with the school until the summer of 1861. He then joined the 2d Reg't N. Y. Artillery as a lieutenant, resigning and returning home on account of sickness, in Nov., 1862. In 1863, he commenced the study of law and was admitted to the bar in 1865. In 1874, he was elected to the General Assembly of R. I., as a representative from the City of Providence, and in April, 1875, he was elected Associate Justice of the Supreme Court. He was assigned to hold the Court

of Common Pleas until 1885, since which time he has sat regularly with the Supreme Court. In 1876, he was appointed by the Governor one of the commissioners to build the Providence County Court House.

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## *PARDON E. TILLINGHAST.*

ASSOCIATE JUSTICE SUPREME COURT OF RHODE ISLAND.

The son of Rev. John Tillinghast, Baptist clergyman, was born Dec. 10, 1836, at West Greenwich, R. I. Obtained a common school, academic and normal school education—fitted for a teacher—taught grammar schools in Providence and vicinity for seven years with very good success, enlisted in the Union army in 1862, in 12th R. I. Vols., (Col. Browne,) serving during its term of service as Quartermaster's Sergeant; studied law with Hon. Thos. K. King for three years, admitted to the bar in April, 1867, readily obtained a good cleintage, was considered a most successful practioner—business steadily grew—was corporation counsel (town solicitor) of Pawtucket from 1874 to 1881, made a specialty of municipal law, took a deep interest in military affiairs, held official positions from Lieutenant to Brigadier-General, inclusive; was Judge Advocate General of State for six years, took an active interest in politics (republican in politics), represented Pawtucket in the General Assembly (House and Senate) for seven years—Chairman of Judicial Committee of Senate for three years, Chairman of Joint Select Committee of General Assembly on Revision of Statutes in 1880-1, Chairman Committee to welcome and entertainment of President Hayes as guest of State; took an active interest in public education, served in school committee for a number years, has been member of Baptist Church since the age of sixteen; Superintendent of

Sunday-school several years; elected Judge in June, 1881, to succeed Hon. Walter S. Burges, resigned; assigned to hold Court of Common Pleas, had charge of criminal side of the court for four years, then transferred to civil side, (*nisi prius*), where he now sits. Sits with Supreme Court occasionally, as occasion requires—writes occasional opinions—see sections 13, 14, 15 and 16, R. I. Reports. Common Pleas cases are not reported. Married in 1867, wife and four children.

He was ever a diligent student, a close observer and a hard working man.

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## *GEORGE A. WILBUR.*

### Associate Justice Supreme Court.

Judge Wilbur was born in 1822, and was admitted to the bar in 1862. Though coming to the bar late, he did not permit his desire to begin his professional career to gain the mastery over his patriotism. He enlisted in 1862, was promoted to the rank of captain, and after having seen much hard service in the field, was mustered out at the end of the war. From 1865 till 1872 he was presiding justice of the Woonsocket court of magistrates. From 1872 till 1885 he was Trial Justice of the Justice Court of Woonsocket. He was for five years State Senator, and duriug a portion of that time chairman of the Judiciary Committee. Upon the resignation of Judge Carpenter, in 1885, Judge Wilbur was elected an Associate Justice. By assignment of the court he holds the Court of Common Pleas, his time being largely taken in the trial of the criminal docket.

## *HON. LOGAN E. BLECKLEY.*

### Chief Justice Supreme Court of Georgia.

Logan E. Bleckley, the present Chief Justice of Georgia, is a native of that State, and was born near Clayton, in Rabun county, on the 3d day of July, 1827. His parents were from North Carolina, his father being of English and Irish and his mother of German descent. His education was scanty and imperfect, such only as could be obtained at the County Academy. In his twelfth year, his business training began in the office of his father, who was Clerk of the local courts. From his clerical work, and his attendance upon legal proceedings which some of it involved, he contracted an early relish for the law. He read the statutes for pleasure, and out of the glimpses of legal majesty which he obtained, his imagination constructed poetic visions. At the age of seventeen, he borrowed the necessary books, and entered on the study of law with a view to practice it as a profession. He had no tuition save some general advice, and a few brief examinations as his reading progressed. Shortly before he was nineteen he was admitted to the bar. He practiced for nearly two years with great enjoyment, but with a cash income of less than fifty dollars per annum. Realizing that he was not well located for professional activity and success, he determined to get out of the woods and settle in a clear field, but he had no money, nor could his family or friends supply him with enough of that prosaic but needful auxiliary. He bought a horse on credit, borrowed a few dollars to defray traveling expenses, and set forth to seek remunera-

tive employment. His first application was successful. By mere chance, he secured an appointment as secretary and bookkeeper of the State Railroad. This located him in Atlanta, and set him to coining money with his pen at the rate of forty dollars per month for the first year, fifty for the second, and sixty-six for the third. Thus, he passed the years 1848, 1849 and 1850. In 1851 he was invited by Governor Towns to Milledgeville, to serve him as one of the Secretaries of the Executive Department, the salary being $1,200. The official term of Governor Towns expired in November of that year, and his new secretary went out with him. His money-making probation here ended, and after collecting a small library he set up in Atlanta as a lawyer in March, 1852. Near the close of the following year, he was elected Solicitor General of the Coweta Circuit for four years. He was married in May, 1857. In 1861, he went to the war as a private in a cavalry company, but did no fighting for the sole reason that one army or the other always retreated without an engagement whilst he was in the ranks. At this result he was secretly gratified. His health failing, he was discharged from the service, and this also gratified him, for he was no soldier, and had no taste for killing or being killed. Near the close of 1864. he was appointed Reporter of the Supreme Court, which office he resigned in the Spring of 1867, after reporting two volumes of decisions, the 34th and 35th Ga. From July, 1875, to February, 1880, he served as an Associate Justice of the Supreme Court, his colleagues being Judge Warner as Chief, and Judge Jackson as Associate. His opinions of that period are found in the eleven volumes beginning with the 54th and ending with the 64th Georgia Reports. He resigned this office also, the

reasons for his resignation being stated in his letter to the Governor, as follows:

"First, I am not sufficiently learned in the law to be qualified on a large and liberal scale for judicial functions. In consequence of this deficiency, I rarely know how to dispose of difficult cases until after a degree of labor which exhausts me in mere preparation for deciding. It follows that I am generally behind in writing out my opinions. At present, I am much behind. Second, my health threatens to fail, unless I change my mode of life."

His last reading from the bench as Associate Justice was a brief poem, "In the Matter of Rest," which may be seen on page 452 of the 64th Ga.

With improved though still rather infirm health, he resumed the bench in January, 1887, as successor of Chief Justice Jackson. During each year of this new service his physical condition has improved, and he is now able to work "without ceasing." His sole ambition is to do good judicial work, and in labor alone does he seek or expect to find his allowance of earthly happiness.

His opinions as Chief Justice are reported in the 77th and subsequent volumes of the Georgia Reports. Perhaps his chief mental characteristic is a somewhat unusual combination of the logical with the poetic faculty. To him law is logic suspended in an atmosphere of beauty.

In person, he is tall, angular and ungraceful, and though he has a passion for beauty, no trace of that enchanting quality is visible upon his own face. He, himself, admits to his confidential friends that he is ugly.

## *CHIEF JUSTICE ANDREWS OF CONNECTICUT.*

Charles Bartlett Andrews was born in Sunderland, Franklin Co., Mass. His father, Erastus Andrews, was a clergyman and pastor of a Baptist Church in North Sunderland. The family was of Connecticut origin, descendants of William Andrews, one of the original settlers of Hartford, and for many years its town clerk. Judge Andrews' grandfather, Elisha Andrews, was born at Middletown, but his parents removed to Massachusetts while he was yet a boy and he lived there during the remainder of his life. E. Benjamin Andrews, President of Brown University, is a younger brother of the Chief Justice.

Mr. Andrews was graduated from Amherst College with high rank in 1858. He studied law in Sherman, Conn., was admitted to the bar of Fairfield County at Bridgeport in 1860, and immediately after began the practice of his profession at Kent., Conn.

In 1863, the Hon. John H. Hubbard, then one of the leaders of the Litchfield County bar, was elected to Congress ; and, looking about for a bright young lawyer to aid him in conducting his large business, selected Mr. Andrews. It was a shrewd choice ; and, during the four years of Mr. Hubbard's public service, his junior partner proved himself competent to try important causes in court, and equal to all the emergencies of a large practice.

In 1868, Mr. Andrews was elected to the State Senate, where he took a prominent part during the session of that year ; and, in 1869, he was re-elected, an unusual

CHIEF JUSTICE CHAS. B. ANDREWS, OF CONN.

honor in a district where renominations were infrequent. During his second term in the Senate, he was chairman of the judiciary committee, and took a leading part in shaping the legislation of the session. Between 1872 and 1873, it so happened that most of the prominent members of the Litchfield County bar were removed; Mr. Hubbard by death, Judge Origin S. Seymour by elevation to the Supreme Court, and Mr. Edward W. Seymour (now an associate judge of the Supreme Court) by change of residence to Bridgeport; and, thereupon, Mr. Andrews came into the enjoyment of by far the largest and most lucrative practice in the county. From that time till 1878 he led the life of a very busy lawyer constantly growing in reputation and employed on one side or the other in nearly every important suit tried in the County.

In 1878 Mr. Andrews was elected from Litchfield to the House of Representatives, the first Republican chosen to represent that town since the war. He was a prominent candidate for the position of speaker, and was appointed chairman of the judiciary committee, and, *ex officio*, leader of the House, a position for which his attainments and experience as a lawyer, his sagacity as a politician, and his remarkable power of clear yet compact statement, admirably fitted him. In fact it was the ability he displayed as leader of the House which gave him the nomination as Governor in the autumn of the same year.

For many years in Connecticut the Democrats had elected their State officers, and, on the assembling of the Republican convention in the summer of 1878, some of the more prominent Republicans took care that their names should be withdrawn from its list of possible candidates. Mr. Andrews made a shrewder estimate of the condition of Connecticut politics, accepted the

nomination, received a plurality of the votes cast, and was duly elected by a Republican legislature.

During Governor Andrews' two years term of office, several important measures were before the legislature. The boundary line between Connecticut and New York, which had remained uncertain for a century and a half, in fact, since the foundation of their governments, was at last settled by a joint commission, whose report was accepted by the legislatures of both States. But by far the most important legislation of Governor Andrews' term was the passage of the Connecticut Practice Act—a measure framed by some of the most eminent lawyers in the State to serve the purpose of the Codes framed in other States for simplifying and reforming the common law pleadings and practice in civil actions. Having the benefit of thirty years experience elsewhere, this act was a model of simplicity and practical usefulness, reforming what was cumbersome and intricate in the old practice, while it retained the advantage of the sound principles and innumerable precedents underlying it. The act was strongly opposed by many of the older lawyers in and out of the legislature, but had the firm and efficient support of the Governor throughout. Its success has fully justified the expectations of those who procured its passage, and it forms a most important epoch in the history of Connecticut legislation.

Though Governor Andrews' administration was firm and popular, many circumstances occurred to prevent his renomination. In 1882 Governor Bigelow appointed him to the bench of the Superior Court where his untiring industry, his thorough legal knowledge, and his keen discernment as a trier, commended him to the bar and people of the State.

In 1889, on the retirement of Chief Justice Park, of

the Supreme Court, Governor Bulkeley nominated Judge Andrews as his successor ; and he has satisfactorily performed the duties of that position to the present time.

Beginning practice as he did in one of the smallest towns of Connecticut, a stranger with no advantages of wealth, social position or family influence, Judge Andrews' steady advance to the highest positions in one of the oldest and most conservative States in the Union is a typical instance of the remarkable chances which the lottery of life in our republic opens, to all its citizens. But the industry, the native force and the sagacity which have enabled him to profit by every opportunity, are perhaps equally remarkable.

## *HON. ALBERT H. HORTON:*

CHIEF JUSTICE SUPREME COURT OF KANSAS.

The antiquity of the Horton family is established by the fact that one Robert de Horton manumitted a bondman to his manor of Horton, long before the time of Henry Larey, Earl of Lincoln, who died in 1310. It is also ascertained that the Horton's had a manor house in Great Horton, at a remote period. The word Horton, in the Anglo-Saxon language, means an enclosure, or garden of vegetables. It is said to be derived from ort and tun, ort meaning plant, and tun, inclosed. The name is evidently of Latin origin, and has been known in England ever since the conquest of Cæsar. The Horton coat-of-arms in England is as follows: A stag's head cabossed, silver; attired, gold; and for distinction, a canton ermine. Crest, out of the waves of the sea proper, a tilting spear erect, gold; enfiled with a dolphin, silver, finned, gold, and charged with a shell. The motto, "Quod vult, vaile vult:" What he wills, he wills cordially and without stint.

William Horton, Esq., of Frith House, in Barksland, Halifax, descended from the above mentioned Robert Horton. He married Elizabeth, daughter of Thomas Hanson, Esq., of Toothill, and died about 1640. He had issue as follows: William Horton, of Barksland, or Bark Island Hall, who purchased in the fifteenth of Charler I., the estate of Howroyde, was born about 1576; Joseph Horton, born about 1573. Barnabus Horton, the ancestor of the Horton family in America, was the son of Joseph Horton, above mentioned, and was born in

the little hamlet, of Mously, Leicestershire, on the 13th of July (old style), 1600. He came over in the ship "Swallow," between 1633 and 1638, and landed at Hampton, Mass. In 1640, he came to New Haven, Conn., and on the 21st day of October, 1640, assisted by the venerable Rev. John Davenport and Gov. Eaton, organized themselves into a Congregational Church, and sailed to the east end of Long Island, now Southhold. They had all been members of Puritan churches in England. He built the first-frame dwelling house ever erected on the east of Long Island, and that house, in 1876, was still standing and occupied. He died at Southhold, on the 13th day of July, 1680, aged eighty years. This Barnabas Horton is known in the history of the Horton family as "Barnabas, the old Puritan." He was a man of sincere piety and a warm advocate of civil and religious freedom. His third son was born in the autumn of 1640, and was called Caleb. He settled at Cutchogue, Southhold Township, Long Island, and died October 3, 1702. Calebs' first child was born September 23, 1666, and was named Barnabas, after the "Old Puritan." Barnabas, number two, had a second son who was also named Barnabas, who was born in Southhold, Long Island, about 1690. In 1732, he moved to Goshen, N. Y. The fifth son of Barnabas the third, was born in Southhold, Long Island, in 1730, and was named Silas. The sixth child of Silas was born the 30th of June, 1770, in Goshen, N. Y., and was also called Barnabas. He married in 1794, Millicent Howell, and died October 24, 1823, in Minnisink, Orange county, N. Y. The third child of Barnabas the fourth, was born in Goshen, N. Y., February 1, 1800, and was named Harvey. He was married to Mary Bennett, and died May 10, 1840. His children were as follows: Harvey Addison, born March

13, 1832; Millicent Ellen, born September 3, 1833, and Albert Howell, born March 12, 1837. Dr. Harvey Horton was an educated and skillful physician, and practiced his profession with success in Minnisink and the adjoining towns, and enjoyed the confidence of all who knew him. His son, Harvey Addison, was instantly killed September 3, 1861, by the fall of a bridge with a train of cars upon it, one of which he was in, which spanned the Little Platte River, nine miles east of St. Joseph, Mo. The bridge had been partly burned by Confederates, but left standing, ready to fall when the cars came upon it. Minnisent Ellen died March 24, 1841. Albert Howell Horton, the subject of this sketch, is the second son of Dr. Harvey Horton and Mary Bennett. He was born near Brookfield, in the town of Minnisink, Orange county, N. Y., March 12, 1837. He attended the public schools of West Town, N. Y., until thirteen years of age, and then was prepared for college at the "Farmers' Hall Academy," at Goshen, Orange county, N. Y. In 1855, he entered the University of Michigan at Ann Arbor, Mich., as a freshman, and remained two years, but was obliged to leave college on account of inability to study, owing to an affection of the eyes. In 1858, he entered the law office of Hon. J. W. Gott, at Goshen, N. Y., as a law student, and remained there until December 15, 1858, when he was admitted as a counsellor and attorney at law, at a general term of the Supreme Court, held in Brooklyn, N. Y. In 1859, he came west with his brother, Dr. Harvey A. Horton, and settled at Atchison, Kas., as his home, and has resided there ever since. In 1860, he was appointed the City Attorney of Atchison by the Mayor, to fill the vacancy caused by the resignation of the elected City Attorney. In the spring of 1861, he was elected City Attorney of the city,

CHIEF JUSTICE HORTON, OF KANSAS.

upon the Republican ticket. In September, 1861, he was appointed District Judge of the Second Judicial District of the State of Kansas, by Governor Charles Robinson. He was twice elected to the same office and then resigned, to resume the practice of his profession. In 1868, he was elected one of the electors on the Republican State ticket of Kansas, and was selected as the messenger to take the vote of Kansas to Washington. From 1861 to 1654, in addition to attending to the duties of Judge of the District Court, he assisted in editing the *Weekly Champion*, a newspaper printed and published at Atchison City. On May 26, 1864, he was married in Middletown, N. Y., to Anna Amelia Robertson, daughter of William Wells Robertson and Adeline Sayer. The children born to them since their marriage are as follows: Carrie Robertson, born in Middletown, N. Y., April 22, 1865; Mary Bennett, born in Atchison, Kas., July 12, 1868; Rosa Sayer, born in Atchison, Kas., June 2, 1871; Albert Howell, Jr., born in Atchison, Kas., April 1, 1874.

In May, 1869, Mr. Horton was appointed by President Grant, U. S. District Attorney for Kansas, and held the office until his resignation on July 18, 1873. In November, 1873, he was elected to the House of Representatives of the Legislature of Kansas, from Atchison City, and in November, 1876, was elected State Senator to represent Atchison county. January 1, 1877, he resigned the office of State Senator to accept the appointment of Chief Justice of Kansas, tendered him by Hon. Thomas A. Osborn, then Governor of the State of Kansas. Under this appointment he held the office of Chief Justice until the regular election in the fall of 1877, when he was elected to fill the vacancy caused by the resignation of his predecessor, Hon. Samuel A. Kingman. In Novem-

ber, 1878, he was elected Chief Justice for the full term of six years.

In November, 1884, he was re-elected Chief Justice for the State of Kansas for another term of six years and in November, 1890, he was again re elected Chief Justice for the State of Kansas for another term of six years. When he went upon the Bench, in 1877, sixteen reports only of the Supreme Court had been published. The number has now increased to forty-three, and sufficient opinions have been filled to complete the forty-fourth report. From two to three volumes of reports are filed each year, containing from 150 to 175 opinions each. Chief Justice Horton is in the prime of life, in excellent health and is now, in the ordinary course of things, good for many years of work and usefulness.

In June, 1888, the University of the State of Michigan conferred upon Judge Horton the honorary degree of LL. D.

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The Officers elected by the Congress held June 4th to 7th, 1889, in New York, were as follows:

## OFFICERS.

### PRESIDENT.

CLARK BELL, ESQ., of New York.

### VICE-PRESIDENTS.

Chief-Justice Sir John C. Allen, of New Brunswick.
Chief-Justice Edward F. Bermudez, of La.
Gov Biggs, of Delaware.
Dr. Daniel Clark, of Toronto, Canada.
Ex-Chief-Justice Noah Davis, of N. Y.
Dr. Edward J. Doering, of Illinois.
Prof. John J. Elwell, of Ohio.
Judge W. H. Francis, of North Dakota,
Dr. W. W. Godding, of Washington, D. C.
Dr. Eugene Grissom, of N. C.
Dr. Carl H. Horsch, of N. H.
Judge Locke E. Houston, of Miss.
Dr. Charles H. Hughes, of Mo.
Dr. W. W. Ireland, of Scotland.
Prof. Robt. C. Kedzie, of Mich.
Dr. Norman Kerr, of England.
Dr. Jennie McCowen, of Iowa.
Dr. Jules Morel, of Belgium.
Dr. Connolly Norman, of Ireland.
Prof. John J. Reese, of Pa.
Dr. Bettincourt Rodrigues, of Portugal.
Judge H. M. Somerville, of Ala.
David Steward, Esq., of Maryland.
Theo. H. Tyndale, Esq., of Mass.

The following Vice-Presidents have since been named by the President:

Dr. Cyrus K. Bartlett, for Minn.
Prof. Dr. Benedikt, for Austria.
Hon. C. H. Blackburn, for Ohio.
Prof. Brouardel, for France.
Sig. J. M. P. Cammao, for Equador.
Judge Elisha Carpenter, for Conn.
Prof. Millen Coughtrey, for N. Zealand.
Dr. J. S. Dorsett, for Texas.
Judge L. A. Emery, for Maine.
Dr. I. T. Eskridge, for Colorado.
Dr. Enrico Ferri, for Italy.
Dr. Simon Fitch, for Nova Scotia.
Judge C. G. Garrison for New Jersey.
Dr. Vincent de la Guardia, for Cuba.
Prof. Axel Key, for Sweden.
Doctor Herman Kornfeld, for Silesia.
Prof. Dr. Paul Kowalewski, for Russia.
Prof. Dr. J. Maschka, for Bohemia.
Dr. Y. R. Le Monnier, for Louisiana.
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Judge A. L. Palmer, for New Brunswick
Doctor Vau Persyn, for Holland.
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T. Crisp Poole, for Queensland, Australia
Dr. Thos, O. Powell, for Georgia.
Hon. Hon. Han. Price, for Hayti.
Gov. L. Bradford Prince, for N. Mexico
Dr. H. K. Pusey, for Kentucky.
Sen. Watson C. Squire, for Washington.
Dr. Von Steenberg, for Denmark.
Hon A. M. Alvarez Taladriz, for Spain.
Dr. Geo. A. Tucker, for New S. Wales.
Senator Andrea Verga, for Italy.
Prof. Dr. D. Vleminicks, for Belgium.
Prof. Dr. Wille, for Switzerland.
Dr. C. E. Wright, for Indiana.
Mr. Le Grand Young, for Utah.
Sig. F. C. C. Zegarra, for Peru.

### SECRETARY

MORITZ ELLINGER, ESQ., of New York.

### ASSISTANT SECRETARIES.

FRANK H. INGRAM, M. D., of N. Y. W. J. LEWIS, M. D., of Conn.

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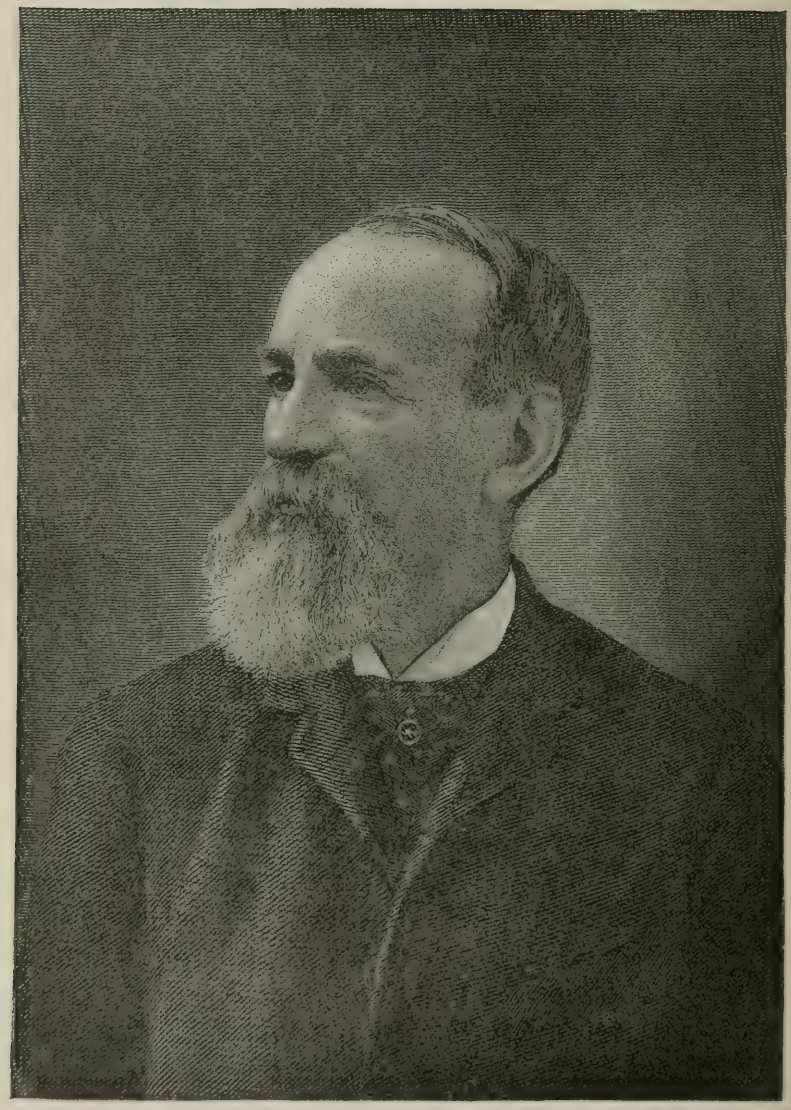
The President was empowered and directed by the Congress to appoint additional Vice-Presidents for the various States, Territories, Provinces and Countries, which will be done in the future.

Members of the Congress receiving this circular, who have not sent their enrolling fee, will please do so, and circulate this among those who take an interest in the Science.

Your early response is requested to either of the undersigned.

MORITZ ELLINGER,
Surrogate's Office,
New York City.

CLARK BELL,
*President*,
57 Broadway, N. Y.



Yours Sincerely
S. S. Cox

# SOME MEDICO-LEGAL CONSIDERATIONS OF TETANUS.*

BY FRANK H. INGRAM, M. D.

This brief paper was suggested by a case which recently received considerable attention, and which presents a few points worthy of most serious consideration from a medico-legal standpoint.

One of our city policemen, William Smith, was indicted by the grand jury for manslaughter in the first degree, it being alleged in the charges preferred that he had struck his wife with his club, that the wound produced by the blow suppurated, and, eventually, caused death by tetanus or lock-jaw. The trial of the accused occupied five days in the Court of Oyer and Terminer, before Justice Barrett. Assistant District Attorney, Mr. Stapler, appeared for the People, and Counsellor Louis J. Grant for the defendant. Both sides of the case were ably and fairly conducted, and the verdict rendered by the jury was in keeping with the indictmeet—"Guilty." This verdict was, in one sense, a surprise, *id est*, from a purely scientific standpoint; in another sense, it was what might have been expected.

It is a difficult matter to present to a jury the points upon which a medical man bases an opinion which is contrary to one suggested by the sentimental features of the case; and it is equally difficult to bring out the really decisive features of a case in which there are medical opinions of apparently dissenting character, so that the ones which should have weight

*Read at the Session of June, 1891, before the Medico-Legal Society.

are paramount to those which are practically of no value whatsoever. This was most manifest in the case in point, and serves to show, in a measure, the defects of our system of convicting or acquitting persons charged with certain crimes, and, in this particular instance, the legal status of such a disease as tetanus.

Tetanus is a morbid condition characterized by spasms of a certain type. It cannot, in the present state of our knowledge, be called a distinct disease, but is to be regarded as a symptom of some condition which either directly, or through various channels, acts as an irritant to certain portions of the nervous centres, the medulla and the spinal cord, particularly the medulla. It may follow injuries, exposure to cold and wet, hemorrhages upon or into the substance of the brain and spinal cord, or it may exist without any apparent exciting cause.

Certain observers have endeavored to demonstrate a specific microbe for tetanus, but we cannot accept their conclusions as justifiable, nor can we entertain a hope that further experimentation will give satisfactory results in that direction.

There is an acute form and a chronic form, the acute being nearly always fatal in its termination; and it is with this form that we have to deal.

Mrs. Smith, the wife of the accused policeman, died ten days after the time when the husband was supposed to have struck her with his club. Just before death, she showed the symptoms of lock-jaw, and died in spasms. For several days previous to her demise, she had complained of no unusual feeling, was able to attend to her household duties, and walked a distance of a few miles without discomfort or fatigue. She did not deem it necessary to send for a physician until the night before she died, when she complained of headache and sore throat. The doctor made a most super-

ficial examination, discovered no wound, nor even looked at her throat. The next day the lock-jaw developed, and she died at noon.

The case was reported to the police, and Dr. Donlin, Deputy Coroner, made a *post mortem* examination. Dr. Donlin found a suppurating wound of the scalp at the back of the head, and a clot of blood at the base of the brain, from rupture of the basilar artery. This clot of blood impinged upon the medulla—that part of the nervous centres which is supposed to be directly concerned in tetanus. There was not fracture of the skull nor other unnatural condition.

In rendering their verdict, the jury believed that Smith struck his wife, that the wound produced tetanus, and that tetanus caused death.

Expert testimony, which was not rebutted, tended to show that it would be impossible for a physician to conscientiously assert that death resulted from the wound, and not from the hemorrhage at the base of the brain, or from some condition which had not been discovered.

Taylor, in his celebrated treatise, "The Principles and Practice of Medical Jurisprudence," speaking of where a person is charged with having caused the death of another through violence terminating in some fatal disease, says:

> The disease, it may be urged, is liable to appear in all persons, even the most healthy; or it may arise from causes unconnected with violence. In admitting these points, it must be remembered that death may be proved to have been indirectly a consequence of the wound by the facts: 1. That the supervention of the secondary cause, although not a common event, lay in the natural course of things. 2. That there did not exist any accidental circumstances which were likely to have given rise to this secondary cause independently of the wound. The proof of the first point amounts to nothing, unless the evidence on the second point is conclusive.

Taylor further says:

> A medical practitioner is bound to exercise great caution before he pronounces an opinion that a fatal attack of tetanus has arisen either from spontaneous causes or from slight blows or personal injuries.

Tetanus is occasionally traceable directly to a wound. The superficial termini of the nerves may be irritated through contusion of inflammatory products, and the morbid condition extend along the sheath of a nerve, eventually reaching the convulsive centres. In such instances, it is safe and correct for a physician to assert that tetanus is due to the wound; but I hold that, unless the chain of morbid products is absolutely unbroken, no one can state with sufficient positiveness to justify the conviction of a man, that tetanus is or is not really the result of a certain injury. In the Smith case, conviction seems unwarranted, for there were two conditions, either of which might have been followed by tetanic spasms.

To be brief, this is the rational status of tetanus in its medico-legal relations: Tetanus is a condition which may be produced by such a multiplicity of physical states that, from a strictly scientific standpoint, it would be unjust to convict a person of manslaughter when death occurs from tetanus, unless the tetanus is directly, not speculatively or suppositionally, traceable to a particular injury or series of injuries.

Tetanus is comparatively such a rare condition, and so little is known of its pathology, that it does seem an injustice to attempt, in the majority of cases, to base a conviction upon what is supposed to have produced it.

# A SCOTTISH WILL CASE.*

BY G. W. WILTON, B. L., ADVOCATE, EDINBURGH.

The legal effect of monomania is a fertile field of medico-legal discussion. With regard to testamentary capacity, current judicial decisions in Britain may be said to ignore the presence of this malady, unless it is proved to demonstration that the will of the person suffering from it was the offspring of, or in some visible way tainted by, his delusion. This view is not, perhaps, in consonance with the prevailing opinion of experts in this branch of medical science. In its circumstances, each case, however, is so varied, and the manner in which it may be judicially viewed so diversified, that a record of it is always of interest.

In Scotland, cases of this kind occasionally come before the legal tribunals. The most recent case is a somewhat remarkable one. It was the subject of decision during the Summer of 1891 by the Court of Session—the Supreme Civil Tribunal.

The will in dispute was that of John Hoyes Gill, Postmaster at Forres, a town in the North of Scotland. It was written by himself on 6th June, 1889, on which day he committed suicide by placing himself in front of a railway locomotive. The will was in these terms:

FORRES, 6th June, 1889.

In order to do something to benefit the needy, I hereby bequeath one-third part of the proceeds of my property, heritable and moveable, to my cousin, Eliza, . . . . and one-third part to my aunt, Mary, . . . The remaining third part to be invested for behoof of the poor people of Forres, who are not on the roll of the Parochial Board of my parish.

*Read before Medico-Legal Society October 14, 1891.

Signed by me this sixth day of June, eighteen hundred and eighty-nine.
J. H. GILL.

This will, if sustained, set aside another holograph settlement made by the testator on 5th August, 1885, by which he destined his estate, under the usual burdens, to one paternal and two maternal aunts, of whom only one survived him. The value of the estate was between £4,000 and £5,000 sterling, mainly derived through his mother and her relatives. The surviving beneficiary under the deed of 1885 died some months after the testator, and her trustees then instituted proceeding to have the *factum* of 1889 declared invalid.

The case on the evidence presented for the plaintiff, was to this effect:

John Hoyes Gill, the testator, was a bachelor of eccentric habits, a believer in spiritualism, of singular views on some religious topics, verging on those of the famous Mrs. Thwyates, and, generally speaking, of a highly sensitive, nervous temperament. Latterly, he had frequent periods of depression and suffered greatly from sleeplessness. The work of the Post Office during the Summer season seemed to give him undue anxiety. For three weeks or so before his death, to many witnesses, including a doctor much in contact with him as friend or adviser, he appeared to be, more than previously, abstracted in thought, and to be extremely depressed in spirits. After his suicide, the presence of a scrofulous testicle was observed. In his repositories were found three letters from different ladies, declining his overtures of marriage, and also photographs of an obscene character, apparently procured by him from Austria at the time of his election to an eldership in the parish church of Torres, some months before his death.

Upon this state of the facts, the plaintiffs adduced medical testimony, including Dr. Clouston, of Edinburgh, to prove that the testator was suffering, for at least a month or three

weeks prior to his death, with melancholia—the result of dejection—with delusions, latent but actually existing, of personal unworthiness, in consequence of which he believed himself shunned by his friends, some of whom had spoken to his passing them furtively shortly before his death, in contrast to his previously frank manner on meeting with them, and of the sense, so induced, of his unfitness to live, suicide was the culmination in the progress of his disease. This diagnosis was supported, in the opinion of the doctors, by the facts that some members of the deceased's family had died from consumption, one of his brothers had died in an asylum for the insane, a cousin of his mother had died insane, and further, that one of his cousins, still living, on the mother's side, was mentally unfit to manage his own affairs. From the tuberculous testicle, and also from the photographs, was inferred a morbid condition of mind.

The peculiar, and at the same time, admittedly, *ex facie*, rational terms of the will were accounted for by the medical experts on the theory that it was an act of expiation on the part of the deceased for his imagined wickedness, and that wills of the same nature were a common symptom of melancholic insanity. The evidence of the witnesses to fact, in view of the whole surroundings of the case, presented to Dr. Clouston "a perfect picture of insane melancholia" as met with, he said, in his practice every week. None of the symptoms, separately considered, was crucial, nor could the actual delusions under which the deceased was alleged to suffer be specifically described. But that, in these respects, the case should be so, was not surprising to Dr. Clouston and his co-witnesses. It was the symptoms in combination, which formed the *crux*, while reticence in the early stages of melancholia was characteristic of the disease, rendering it frequently impossible to define insane delusion with precision. Up to a certain point, the melancholic patient had self-

control to refrain from outward expression of his real feelings. In cross-examination this eminent specialist allowed the point—whether the melancholic has sufficient judgment to dispose of his estate with discretion—to be moot in medical science. Unless it was simply a deed in pursuance of intentions when absolutely sane—a mere registration—Dr. Clouston held that a decided melancholic could not so dispose, *mortis causa*, of his estate.

The defense was that the deceased was sane, even up to and including his suicidal act. Many witnesses spoke to the business capacity of the deceased, especially in connection with the Post Office; to his intelligent interest in the affairs of his township, and to the general respect entertained for him, morally and intellectually, by his fellow-citizens. In particular, he was esteemed as a church treasurer, elder, and bible class leader. Eccentricity, to some extent, was admitted. His extreme depression for a short time before his death was also uncontroverted; but worry, instead of melancholia, was assigned as its cause, and to which, in the opinion of the defendants' medical witnesses, the suicide was alone attributable. The evidence of insanity in the deceased's relatives was not regarded by them as sufficiently near in degree to be appreciable, and they discounted the bearing of phthisis as predisposing to insanity. No great weight was placed by them on the other indications, relied upon by the plaintiffs, of depression and moral perversion. Upon the general principles, however, of melancholia, and its symptoms, the difference, if any, between the hostile experts was immaterial.

But the strength of the defendants' case lay in the rationality of the testament. It was holograph, as the former will was holograph, and was written by one who had received an early training in a lawyer's chamber. All the beneficiaries of the former will, with the exception of one in comfortable circumstances, had predeceased him. The individual legatees

of the disputed will were necessitous, and the explanation of the bequest for the poor of Forres was found in the withdrawal, through the action of Government, of a fund previously devoted to their assistance, and which had been the subject of press notice and public comment. The doctors for the plaintiffs, in the light of these facts, were forced to admit the rational nature of the provisions in the will.

In regard to the nature of the suicide, it was urged for the plaintiffs that it was premeditated, and was the close of the melancholy drama, of which the will and the *felo de se* were part and parcel, incapable of separation. The defendants, on the other hand, contended that the suicide was sane, the result, not of *dementia*, but of *tedium vitæ*. In this particular case, it is thought, the theory of sane suicide—if at all a sound theory—was stretched somewhat beyond its legitimate limits. "Suicides by suggestion," according to one of the doctors for the defense, were much on the increase, and for which the press was in some degree accountable.

The judge who heard the witnesses, and disposed of the action in the first instance, held the rationality of the will to be conclusive of the case. His judgment was affirmed by the Supreme Court of Review in Scotland. No appeal was taken to the House of Lords. All the judges were of the opinion that the evidence did not disclose the existence of any tangible insane delusion in the mind of the deceased, and that, if any did in point of fact secretly exist, it had no operative connection with the will. The will accordingly stood.

The judgment of the Court in upholding a will in such circumstances clearly shows the necessity, *coram judice*, for positive proof of delusions patent, and affecting the particular direction of the will power, before the testaments of melancholics can be expected to be denied effect. This, however, in many cases of melancholic insanity, is impossible. So rapid may be the progress of the disease that it is often un-

observable by intimate friends, to whom suicide may be the first intimation of a "mind diseased." The cause or effect of depression may be so subtle upon the mind that it is impossible to get, in our diagnosis, beyond a general state of mental unsoundness, from the gloom and depressing environment attendant upon melancholia. If it be true that, in such cases, suicide frequently supervenes without any delusion expressed specifically prior to death, then it becomes a matter of moment whether, on grounds of public policy, the testaments executed by a melancholic should be admitted to probate, however rational on the surface the will may seem.

Is not the test that which many medical men advocate? Was the mind of the testator in a sound, healthy condition? The medical answer, in the case we have dealt with, given in the negative, has much to recommend it. The testator was not *sain d' esprit.* So much so, that Dr. Yellowless, of Glasgow, the chief witness for the defense, did not deny that, if the suicide had been unsuccessful, he would have put the deceased under surveillance. Yet its successful accomplishment was treated by him as an act of sanity.

Proof of business capacity in such cases is really of little value as positive indication of sanity. It is equally consistent with his sanity. The remarkable case is well known of the Englishman who acted as solicitor and treasurer to the Committee in Lunacy of his own person. No doubt proof of this nature has some weight. The tendency, however, in Britain, is to make evidence of this all sufficient.

The rationality of the will is of importance, but not such as to enable it to run away with the judgment. It is here that judges may go astray. Perhaps, says the Court, the testator was unsound in mind, but, from the evidence, the inference is obvious that his testamentary power was free from abnormal influences. Naturally, the Court recoils from a verdict of insanity. There seems to be no reason for its de-

livery *post mortem*, for it is in many cases the immediate relatives who seek redress against insane wills. But, in all these cases of monomania, or even in the case we have been considering, can we say with certainty that a sound mind would have disposed in the same way? The expiation theory was ridiculed by the Court, but it does not seem to have been entirely inapposite. The deceased ignored his nearest relatives, from whose side of the family the mass of his estate was derived, although with them he was in friendly intercourse to the last. The sane testator would probably have done no more than have given distant relatives with whom he was in rare communication a life-rent, and destined the capital of their provisions to his more immediate relatives. True, we are in the land of conjecture, but it seems equally permissible to assume that the testator of sound mind would not have acted as in the case where, no doubt, on apparency, he acted rationally. "In order to do something to benefit the needy" dominated the whole of his settlement, and it is not an unfair inference to suppose that the execution of this idea was in mitigation of his assumed depravity and preliminary to the fearful end he was then contemplating.

On the assumption that melancholia was disproved, the decision was right. But, on the contrary assumption it does seem to be the sound course to refuse legal effect to testamentary acts where the testator is proved to have been suffering from melancholia or monomania even with delusions unexpressed, and that whether or not such insanity may be inferred to have adversely operated upon the disposing faculty. The mind of the person is unsound. The ravages of mental disease in the still to a great extent dark continent of the brain are none the less serious because they do not tell their tale minutely during life. No sound analogy exists between the multiform duties, very often routine, which a monomaniac may satisfactorily perform to outward appear-

ances, in his every-day life, and the one great and final transaction of his whole life done *intuitu mortis*. Especially where will and suicide are closely connected, public policy indicates the law of the land as being the best distributor of the *felo de se's* estate.

The reasoning of Lord Chancellor Brougham in the celebrated case of Waring *v.* Waring does not seem to us to have been destroyed by the argument adopted in more recent English cases. With this Chancellor's elaborate judgment in that case, some of our eminent Scottish judges concur. It seems to supply the only safe guide by which, on principle, all such cases may be determined, preferably to the rule or decision which regards the particular circumstances of each case. Lord Brougham's judgment was delivered as a member of the Judicial Committee of the Privy Council; but some day, the Law Lords of the House of Peers will be called upon to affirm or repudiate the doctrine associated with his name.

# FRIEDREICH'S ATAXIA IN LEGAL MEDICINE.*

BY L. B. BURR, M. D., MEDICAL SUPERINTENDENT EASTERN MICHIGAN ASYLUM AT PONTIAC.

A male patient; of good habits; aged 65 years; married; a carpenter by occupation; habits of parents good (both died of old age); hereditary tendency to mental disease denied; two children of the patient died of hydrocephalus; natural characteristics, cheerful and industrious; health, previous to injury, of which mention is made later on, excellent; assigned cause of insanity, injury to head; duration, four years.

While working in a planing-mill four years ago he was knocked senseless by a blow on the head, probably from a flying belt from a machine. He remained unconscious for four days, during which time he was totally (?) paralyzed. No laceration of the scalp occurred. After regaining consciousness he complained of general numbness, but no motor paralysis existed. In a month he was able to leave the house, and eventually recovered from the immediate consequences of his injury. About three years ago, impulses to injure himself and others came upon him at times. During the past year they have grown more frequent and difficult to resist, and he had become depressed and suicidal. At one time, while at work in the shop, he fastened a chisel to the bench, with the apparent purpose of transfixing himself. A week before his admission to the Asylum he arose from bed, went into an adjoining room, and procuring a revolver belonging

*Read at October session Medico-Legal Society.

to the occupant of the room, whom he knew had arisen and gone out, returned, and placing it to his sleeping wife's temple, pulled the trigger. The cartridge failing to explode, he raised the hammer the second time. At this moment he suddenly realized what he was about to do, and returned the revolver to its former place. This experience he reported to the officials, and asked to be taken into custody.

*Patient's Condition on Admission.*—Height, 6 ft. 2 in.; weight, 183 pounds; personal appearance neat; temperature normal; pulse regular; arterial walls slightly atheromatous; arcus senilis present; apparently in good bodily health; excellent physique; facial expression intelligent and pleasant; pupils normal and react to light and accommodation; presbyopic; vision of left eye more impaired than that of right; tongue slightly coated, no deviation when protruded; sclerotics yellow; vessels somewhat injected; secretions normal; scar on left breast; left thumb deformed from an old wound; speech distinct; gait normal; hand-pressure equal and good; no ataxia; knee jerk present; cutaneous sensibility normal; no subjective numbness; coherency unaffected; memory good; mental action clear; conversation pleasant and intelligent; no delusions.

He relates his case intelligently, and has a good appreciation of his condition. He says the impulses, which first appeared a few months after his recovery from the accident, are becoming more frequent, and his ability to resist them is diminishing. He is utterly unable to account for them, and although perfectly conscious of what he is about to do, and remembering everything which takes place,* he is yet powerless to exercise self-control. He feels strong physically, but thinks that his ability to work is not as great as before the accident. As he expresses it, he is not "keen." He has sensations of occasional beating, like that of a hammer, in

*This may be doubted.

the left side of the head, and vertigo occurs when turning the head suddenly. When walking, he is obliged to keep his head and eyes directed forward. If he turns his head he staggers. He does not, however, require to fix his eyes like one with locomotor ataxia. He has no headache. For a month following the injury he says the muscles of the left arm were rigid. He is sure there is no hallucinatory element in his impulses, has never heard a voice commanding him, and does not recognize the existence of an imperative conception driving him onward. On the contrary, there has always been a severe struggle, a struggle so genuine that at the termination of it he has experienced a sense of exhaustion, at times bordering on collapse, leaving him almost helpless. (Patient's statements at first taken, and as given to the Neurological Club, as regards the nature of his impulses, are contradictory, as will be seen later on.) He speaks of impulses to burn, and says that when these are present he has an overwhelming desire to see something in flames. When he made the attempt on the life of his wife, there was a feeling present, as he expresses it, that "it was the right thing to do." It is not clear from patient's statement, on the day of his admission, whether there was, at the time he procured the revolver and pointed it at his wife's head, any recognition on his part of the insane nature of the impulse. On the following day, however, he stated that at the time he did this deed he did not recognize the impulse as an insane one, the contest in his mind being between two ideas of duty; one that he must do the act, because it was right; the other, that he must refrain because it was wrong. He seemed to lose, from doing it, his individuality, and to become a machine.

*Examination of Head.*—On the left side, about a quarter of an inch below the temporal ridge of the frontal bone there is a slight depression which does not seem to exist on the other side. In the right parietal region is a sensitive spot

about as large as a dime, pressure upon which occasions wincing and dilation of the left pupil. Both spots are small and might be easily overlooked.

*Subsequent History.*—On a day about a month following his admission his attendant observed him sitting alone, with brows corrugated and stroking his forehead with his fingers. His appearance and expression were so much changed, that the attendant was moved to enquire what the matter was. Patient replied that he was lost, and asked whether this was a hotel in Binghamton, N. Y. He remained for about an hour in this state, then cleared up suddenly. He explained to his attendant that he had had similar experiences twice before within the past few days, but had been ashamed to mention them. Two weeks later, while thinking over some arrangements which had been partially made with his wife for the renting of a barn on his premises, he suddenly found himself unable to locate the barn with reference to the house. This loss of sense of location rapidly extended, until he found himself unable to fix any object in the village in reference to another. On the following day this experience was repeated at almost the same hour as the day before. There seemed to be an abolition of the memory of space relations, but no confusion as to his own personal relations, he having a realization of his surroundings and actions. He betrayed a philosophical spirit in talking over his troubles, and said that they would worry him much if he were younger; but being old, and not having much longer to live, he was not much concerned. He said, "If I am to remain here the rest of my life, I must make the best of it."

Patient's statement in the presence of the Neurological Club, with reference to his injury and subsequent symptoms, is substantially as follows:

"I met with an accident at a planing-mill, where, through the belting or something giving way, I was thrown about ten feet. Here I was found

shortly afterwards in an unconscious condition, and doubts were entertained whether I would ever come to myself. After coming to consciousness I did not know where I was, could not locate the mill where I had been working, and my toes and fingers were numb and cold. I practically had no use of them. For over a year I had to keep my socks on at night to keep my feet warm. For two years the muscles of my arms were sore and I could not use them well. I finally contracted destructive tendencies and had impulses to do others and myself harm. Once I felt called upon to set a barn on fire, and it seemed as though it were my duty. I attempted to take my life with a chisel, and that of my wife with a rovolver. What I did, I did with premeditation, (?)* knew perfectly well what I was doing, never thought it was wrong, but, on the contrary, felt called upon to do it as a part of my business. I often got completely lost and bewildered, and for two or three hours at a time could not locate the place where I was. My mind was muddy. Previous to my injury I never had destructive impulses or disposition to injure myself or anyone else. After the accident I saw double, and when I turned my head to one side I was dizzy. To avoid this sensation I would turn my eyes, and not my head. My eyes became weak, and I had to wear glasses when at work."

Patient was apparently a very intelligent witness as to his own condition, and his statement made a deep impression upon the minds of those present.

As will be seen by the foregoing history, however, his accounts about the nature of his impulses vary widely. To a member of the Medical Staff of the Asylum he spoke of them as having been resisted, and of the struggle involved in them being such as to temporarily exhaust his strength. To the member of the Club he affirmed that there was no attempt to resist the impulses; that the question of right and wrong did not enter his mind; that he made plans to kill or burn with premeditation, and that the feeling constantly present in his mind was of a "business" which he had to perform. The patient was perfectly plausible and straightforward in his story, did not attempt to blink or conceal anything, and, on the contrary, was not influenced by a desire to be sensational. He apparently had a keen appreciation of his failings, and realized, (but not to an undue extent,) his mental weakness.

*Compare previous statement of patient.

Were the symptoms that the patient presented due to injury to the head? Upon this point there was concurrence of opinion that the mental symptoms were attributable to the traumatism.

Were the symptoms of an epileptic nature? Doubts were expressed upon this point, in view of the fact that patient had so perfect a recollection of occurrences before, during, and after the commission of acts of violence. A study of the symptoms observed by the attendant, (see "Subsequent History.") however, cast some doubt upon the accuracy of the patient's recollection. There seems good reason to think that when impulses to do injury or destroy property come upon the patient, there is, as a rule, at least momentary loss of consciousness. Further, however convincing and plausible his statements in reference to his own condition may seem, it is apparent, from their conflicting character, that his testimony is not to be wholly depended upon.

As to trephining? Given an epilepsy of three or four years' duration, with resulting brain degeneration consequent upon traumatism, the operation of trephining was, in the opinion of members of the Club, unjustifiable.

*Query.*—Is it not possible that in certain of these (psychical-convulsive) attacks, there may be retention of consciousness and memory, and a struggle between right and wrong, while in others the confusional state is extreme, consciousness is much obtunded, and the idea of right and wrong obliterated? This hypothesis would furnish a reasonable explanation of the apparent discrepancy in patient's statements about his own condition.

*Query.*—What would be such a patient's status under the law as to responsibility for his acts under the old "right and wrong" test?

# ARSENIC IN THE BRAIN IN A CASE OF POISONING WITH "ROUGH ON RATS."*

BY HERBERT E. SMITH, M. D., DEAN OF THE MEDICAL FACULTY, YALE UNIVERSITY, AND ROBERT E. PECK.

In an article published in an earlier number of this Journal (Absorption of Arsenic by the Brain, R. H. Chittenden and Herbert E. Smith, *Medico-Legal Jour.*, Vol. 3., pg. 145.) there were given the results of the analyses of two cases of arsenical poisoning. These cases were offered as testimony that the conclusion of Scolosuboff, (*Bulletin de la Societe Chemique de Paris*, Vol. 24., pg. 125, and *Medico-Legal Journal*, Vol. 2., pg. 233,) that in arsenical poisoning there is an especial accumulation of arsenic in the tissues of the nerve centers, does not hold good for the less soluble forms of the poison, as arsenious oxide and Paris green. But, on the contrary, the brain always contains in these cases a very small amount of the metal as compared with the amount that may be found in the liver and kidneys. These notes of a case are offered as further testimony to the same end. We are indebted for the material to Prof. M. C. White, of the Yale Medical School.

Case of K. O'N. A girl, age 16 years, weight 130 pounds, took with suicidal intent a quantity of "Rough on Rats." The poison was taken about 5 P. M., vomiting occurred at 5:30, and several times during the evening, and death at 11:30, or in six and a half hours. The quantity taken was believed to be about half a box, or 45 grams.

*Read at October session before the Medico-Legal Society.

The materials examined, and the results obtained, were as follows:

*Material vomited during the last hour of life, mixed with a little urine.*—Weight, 425 grams. Obtained of metallic arsenic, 0.3137 gram, equivalent to 0.4141 gram of arsenious oxide. Numerous crystals of arsenious oxide were found in this material.

*Stomach and Contents.*—Weight, 742 grams. Obtained of As. 0.2612 gram, equal to 0.3421 gram of $As._2O_3$.

*Entire Liver.*—Weight, 1,225 grams. After dissolving in nitric acid, and thoroughly mixing, one-tenth yielded 0.00415 gram, or 0.0415 grams of As. for the entire liver, equivalent to 0.0548 gram of $As._2O_3$.

*Right Kidney.*—Weight, 116 grams. Obtained of As. 0.00335, equal to 0.0044 $As._2O_3$.

*One lateral half of Brain.*—Weight, 683 grams. Obtained of As. a mirror weighing less than 0.0001 gram.

According to these results, the stomach in this case contained a large quantity of arsenious oxide, certainly 0.7562 gram, until within an hour of death, and 0.3421 gram at the time of death, or for six and a half hours. Yet while the liver contained 0.0415 gram, the brain contained less than 0.0002 gram of metallic As. The case is therefore in accord with those previously published, for "Rough on Rats" is composed almost wholly of the slowly soluble arsenious oxide, as the following examination shows.

*Composition of Rough on Rats.*—A box of this substance was obtained which was of the same size and appearance as that used in this case. It contained 94 grams of a grayish white crystalline powder, 0.4003 gram of which lost but 0.0003 gram on drying at 100° C., and yielded 0.4974 gram of sulphide, equal to 0.3998 gram, or 99.87 per cent. of arsenous oxide. Hence the powder consisted of arsenious oxide, with a trace of some black coloring matter, apparently lampblack.

# THE NEW LOCUS CLASSICUS OF MORAL INSANITY.*

BY A. WOOD REUTON, ESQ., OF THE LONDON BAR.

I desire to bring under the notice of the members of the New York Medico-Legal Society a remarkable and indeed phenominal book, written by Dr. Hack Tuke, and entitled "Prichard and Symonds in especial relation to Mental Science, with chapters on Moral Insanity." This slender brochure is published by Messrs. J. & A. Churchill, London, and contains only 117 pages. But it possesses two features of exceptional interest and importance. (1.) The formulators and the first supporters of the so-called "doctrine of moral insanity" presented it to the public as a disease in which the moral faculties of the patient were *alone* involved, and which was accompanied by no lesion of the understanding. Now, this definition was liable to a kind of criticism which neither Prichard or Ray seems to have anticipated. In a short and truculent essay,† published by me a few years ago, I urged with improper exaggeration and warmth of language that the whole "case law" of moral insanity could be resolved into three classes—(*a.*) cases in which there was marked intellectual disorder, (*b.*) cases of strong criminal impulses successfully resisted, and (*c.*) cases of strong criminal impulses furiously gratified and never resisted at all. Within limits, and as applied to the *observations* of the early French,

*Read before Medico-Legal Society October 14, 1891.

†*Monomanie sans delire*—an examination of the irresistable impulse theory. (T. & I. Clark, Edin., 1886.)

American, and English alienists, I still think that this criticism is sound, and how men of intelligence can go on believing in Priest's famous case of "abstract fury," whatever that may mean, I cannot comprehend. But Dr. Tuke has now furnished the advocates of moral insanity with an argument which legal scepticism will find some difficulty in answering. Skillfully abandoning the old definition as untenable, this eminent alienist contends that the existence of moral insanity is proved by the production of cases in which (*a.*) disorder of the moral faculties is *the prominent characteristic*, or (*b.*) there is at least no such intellectual unsoundness as the *law* would admit to be an exculpatory plea. I venture to hope that this point will be discussed by the New York Medico-Legal Society. (2.) But Dr. Tuke has not contented himself with maintaining that an entire absence of mental disorder is not a necessary *factum probandum* in the case for moral insanity. He has placed on record, temperately, clearly and with ample detail, at least one case of congenital moral defect in which no lesion of the intellectual faculties appears to have existed. To transcribe the history of this case would be unfair to the author, and no *precis* of the facts would bring home to your minds their full significance. I shall conclude this brief communication by expressing my firm belief that Dr. Tuke's *observation* will be the "locus classicus" of moral insanity; that it justifies the cautious acceptance of that doctrine, by which American judges (many of whom are members of your Society), have honourably distinguished themselves; that it is worthy of consideration both by medical experts and by those whose duty it is to cross-examine them, and that the possibility of "*primare verruckheit*" has been established at last.

# REPORT OF DELEGATE TO THE SEVENTH INTERNATIONAL CONGRESS OF HYGIENE AND DEMOGRAPHY AT LONDON, 1891.

BY FERD. M. VALENTINE, M. D.

To the President, Officers, and Members of the Medico-Legal Society:

With the limited space at his disposal and still more limited capabilities, your delegate to the Seventh International Congress of Hygiene and Demography cannot pretend to give more than a cursory review in place of a report. This manifestly is to be regretted, for the Congress, which opened on the 10th of August and closed on the 17th, was certainly one of the most brilliant assemblages ever held; brilliant, as was to be expected from the kind of people who met, and, none the less so, because of the sumptuous entertainments most lavishly provided. Indeed, the latter were so numerous that, had not steadfastness guided the Congress, they might have overshadowed the real purposes of the meeting.

There was a wealth of material, as will be seen by the official programme attached hereto, and which the Editor will publish, if he finds room for it.

On the morning of August 6th your delegate received his appointment as such, and at once wrote to G. V. Poore, Esq., M. D., Honorable Secretary-General of the International Congress of Hygiene and Demography, 20 Hanover Square, London, West, advising him thereof.

The Congress met on August 10th at the University in Burlington Gardens.

The University, an edifice of which Londoners may be justly proud, was in a whirl of excitement and disorder that morning. Members of the Congress and delegates and messengers and policemen rushed hither and thither, destroying forever all preconceived notions anent the placid, dignified repose one likes to attribute to Englishmen.

In one large room long deal tables were placed in a quadrangle, and over these tables were suspended the letters of the alphabet. Behind the tables were a bevy of clerks—pronounced "clarks" for no reason your delegate could ascertain. The clerks, doubtless placed there for the convenience of those who attended the Congress, merit a passing remark, for they represented the type of employe one often sees in public places, resenting, by most taciturn chill, any intrusion upon their privacy. Gradually, however, they thawed, and on the second day courteously returned a courteous "good morning, grave and potent seignor." On the third they cracked their features with a smile, on the fourth they were attentive and anxious to oblige, and towards the end of the session made one regret that the day of parting from them was so near.

The organizing committee had no small task in attending to the wants of the 4,000 people who are said to have attended the Congress; but much of the hurly-burly could have been avoided if the apportionment of tickets and badges and special invitations had been begun a week earlier.

Your delegate reports with regret that the list of those who attended the Congress embraces only thirty-six Americans. The mental and physical, treat thus lost to the other 64,999,964 Americans can be appreciated only by those who were present.

The Congress was evidently placed on a very solid finan-

cial basis. Your delegate heard that the Indian dependencies of Great Britain subscribed £5,000. If 3,000 members paid £1 each, the sum would be raised to £8,000, and 49 Local Sanitary Authorities subscribed £600. "Only four local bodies in the Metropolis subscribed; the subscriptions of the four altogether amount to the small sum of £25." (*Public Health*, August 10, '91.) If nothing else came into the Congress' treasury, about $43,000 was certainly a comfortable sum wherewith to provide printing, programmes, cards, an excellent guide of London in French and England, a very pretty badge for each member, clerks, and rent.

The guide, called "A Handbook of London, in English and French, Specially Compiled for the Use of Members of the Seventh International Congress of Hygiene and Demography," with its eight plans of London and suburbs, merits all praise.

The Congress was conducted by the various sections set forth in the accompanying programme, copies of which were furnished to members, in English, French, and German. A reference to this programme shows that the work was arranged in two divisions and ten sections, thus:

*Division I.—Hygiene.*—I. Preventive Medicine. II. Bacteriology. III. Relation of the Diseases of Animals to those of Man. IV. Hygiene of Infancy and Childhood. V. Chemistry and Physics in Relation to Hygiene. VI. Architecture in Relation to Hygiene. VII. Engineering in Relation to Hygiene. VIII. Naval and Military Hygiene. IX. State Hygiene.

*Division II.—Demography.*—I. Demography; Health Statistics; Industrial Hygiene.

Your delegate regrets that no section was devoted to Medico-Legal science, which would certainly have been a most successful and satisfactory one, owing to the large number of prominent physicians and jurists present.

All Monday was spent in confusion and ceremonial openings. The real work of the Congress began on Tuesday, August 11th.

An effort to report the proceedings, or even to touch upon all, within the space allowed, would prove a dismal and unprofitable skeleton, therefore only a slight mention of the medico-legal matters spoken of in the various sections will be attempted.

Sir Joseph Payrer, K. C. S. I., opened the section of Preventive Medicine, whose President he was, with a most brilliant address, in the course of which he said concerning *Vivisection:*

"Still it is in the region of scientific research by experiment that we look for real progress, and we can only deplore the mistaken sentiment, the false estimate, and the misconstruction of its aspirations and purposes, which have placed an embargo on experiments on living animals, rendering the pursuit of knowledge in this direction well-nigh impossible, if not criminal; whilst for any other purpose, whether of food, clothing, ornament, or sport, a thousandfold the pain may be inflicted without question. The inconsistency of the sentiment which finds unwarrantable suffering in an operation performed on a rabbit, when the object is to preserve human or animal life or prevent suffering, but which raises no objection to the same animal being slowly tortured to death in a trap, or hunted or worried by a dog, needs no comment; whilst the spirit which withholds from the man of science what is readily conceded to the hunter, is, to say the least, as much to be regretted as it to be deprecated."

The value of *Quarantine* was disavowed by Surgeon-General J. M. Cunningham, C. S. I., M. D., in his paper on "The Mode of Preventing the Spread of Epidemic Diseases from one Country to Another." Using cholera as a type, the author mentioned as methods employed to prevent its spread—1. Quarantine (Land and Sea); 2. Medical inspection, and 3. Sanitary Improvement. "The third method must be the only one of real service. The fact that Quarantine ignores the march of sanitary science is one of the chief arguments against its utility."

Inspector-General Lawson, in his paper, entitled "The Transmission of Cholera from one Country to Another," said:

"Cholera cannot be excluded from any country by general quarantine. All that can be done is by hygienic measures to improve the health of the population and to remove the conditions which favor the formation of foci.

"The placing of ships which arrive with cholera on board, under observation, removing their crews and passengers to suitable localities on shore until the disease ceases among them, are very proper precautions, and may prevent a small amount of the disease among the surrounding population, but can never prevent an epidemic if the necessary factors be in progress."

J. Ashburton Thompson, M. D., D. Ph. etc., of New South Wales, in a paper on "Australasian Quarantine," said:

"In case of scarlatina or the like, patients are removed to ordinary isolation hospital (not quarantine), quarters cleansed, and the ship discharged in the usual way, after five or six hours' detention. These principles are strictly adhered to by the Government of New South Wales since 1884. If not quite so closely by the other five governments, the reason is probably political, rather than commercial or scientific."

R. W. Felkin, M. D., of Edinburgh, in speaking of the preventive methods employed by some of the White Nile tribes, mentioned syphylis as—

"known to be prevalent among the Arabs and to follow them about in their wanderings. Central African tribes have actually stamped it out by methods of inoculation compulsory upon both sexes before marriage, and the penalty of cohabitation before subjection to the ceremony is simple and drastic—death. The result has been the virtual stamping out of syphylis among these particular tribes. Where the disease appears it runs a very modified course, and without tertiary symptoms."

Charles N. Hewitt, M. D., of Red Wing, Minnesota, Secretary State Board of Health, Minnesota, representing the State of Minnesota, Board of Health of Minnesota, and the American Public Health Association, in discussing Quarantine, said:

"All cases of infectious diseases, taking small-pox as a type, that penetrated into the interior of Minnesota came from New York, chiefly from Liverpool. Quarantine and medical inspection might do much, but not unless properly organized. A system of organization on each side of the channel, and a local office in the country in communication with the port authorities is wanted."

Surgeon-General Cunningham closed the discussion:

"Quarantine could only be logical if it could be proved that diffusibility of disease is commensurate with increased facility of inter-travel. All history shows the opposite. Steamboats and railways have not increased the spread of cholera; our growing communication with India—the home

of cholera—has not increased it; the theory of quarantine is as wrong as its practice is faulty."

In the same section much attention was given to *Diphtheria.*

Dr. Hewett read an interesting paper on the disease in Minnesota, which received much applause.

Dr. Gibert, of Havre, expressed the opinion that "if all physicians will supply accurate information to the authorities, the extinction of diphtheria is only a matter of time."

Samuel W. Abbott, M. D., of Boston, Secretary State Board of Health of Massachusetts, delegate from said Board and from the Massachusetts Medical Society, read an exhaustive paper on "Diphtheria in Massachusetts," which he designated as "merely a small contribution to the history of diphtheria."

Under the head of "*The Use and Abuse of Alcohol,*" Sir Dyce Duckworth, M. D., LL. D., F. R. C. P., introduced the subject with an eloquent speech, in the course of which he said:

"Our miserable national pre-eminence in the abuse of alcohol has naturally directed medical attention strongly to the subject. . . . This is disputed by Sir William Roberts, who concludes that certain continental races beat us in the vice."

He closed his dissertation in referring to total abstainers:

"I give them every honor for their enthusiasm. Better be earnest than indifferent; but better far be free and sober."

Norman Kerr, M. D., F. D. S., President of the Society for the Study of Inebriety, denounced as cruel and silly to consider it—

"the inalienable right of every Briton to get as drunk as he likes, when he likes, and where he likes, and that the law cannot punish him, unless he does some mischief."

Professor Harald Westergaard, of Copenhagen, in a paper on "The Relation of Alcoholism to Public Health, and the Methods to be Adopted for its Prevention," said:

"It is most important to render the access to spirituous liquors difficult. The prohibitory system (Maine laws), against the manufacturing and sell-

ing of intoxicating liquors, but usually the import and sale of the same in the original packages is not a good one. Several facts show that this system is ineffective, and that it tempts to a surreptitious liquor traffic. The same objections may partly be raised against the "local option" system, leaving to a town, a village, or a larger district of the country to vote for local prohibition, but fraud is more easily detected under this system. The third popular American system, the high license system, seems to be more effective, as it lessens the opportunity for intemperance by reducing the number of drinking saloons, and causing those who pay the high license to help the authorities in the conviction of breakers of the law. Limitation of the number of licenses (Dutch system), and the Gothenburg system, adopted in Sweden, Norway, and Finland. Under the latter system licenses are given to companies, which are only allowed to give the shareholders a fixed rate of interest, leaving the surplus for the benefit of charitable institutions."

In the same section Dr. Sisley read a paper on "Prevention of the Spread of Influenza," concluding:

"I insist on the fact that no one suffering from the disease has a right to spread it to others, and that the hospitality of an infected house is to be avoided. Aged people, and those in delicate health, should avoid all contact with patients who have influenza, and, as a precautionary measure, letters and parcels should be disinfected.

"Again, in the case of public institutions, great care should be taken not to introduce the disease from without. During the late epidemic Dr. Clemow found that at Earlswood, although over a quarter of the total number of the attendants, who did not live in the asylum, suffered from influenza, none of the inmates suffered. At Broadmoor, on the training ship *Mount Edgcombe*, and at the Royal Asylum, Morningside, the disease, when once introduced, spread freely.

"Elementary schools should be shut up in the case of an epidemic, and medical officers of health should be at once informed of any outbreak."

W. O. Priestly, M. D., LL. D., delegate from the Edinburgh Medico-Chirurgical Society, read a most interesting paper on "The Improved Hygienic Condition of Maternity Hospitals," which, in your delegate's opinion, would be advantageously placed in the hands of every obstetrician and gynaecologist.

On Friday, August 14th, the section of Preventive Medicine adjourned, after hearing a paper by Surgeon-General Bostock, C. B., on "The Hospital and Ambulance Organization of the Metropolitan Asylums Board for the Removal and Isolation of Infectious Disease." The author referred

to the various enactments on the subject, which, however, are of purely, though decided, local interest.

### Section II.—*Bacteriology.*

Professor Sir Joseph Lister, Bart., President of this section, regretted, in his opening address, that Dr. Pasteur was unable to be present on account of ill health, and that Dr. Koch had engagements elsewhere.

This section, deeply interesting and important though the discussions were, did not offer many subjects for Medico-Legal review. Among the few may be quoted that of Professor Burdon Saunderson, who in addressing the section on *Tuberculosis*, said:

"Tubercle should be included in the Infectious Disease Prevention Act. We still want information as to the actual prevalance of tubercle. About five per 1,000 cattle are generally condemned as tuberculous. This involves compensation, which will require extra taxes (which would be very small), to be levied."

### Section II.—*The Relation of the Diseases of Animals to those of Man.*

Sir Nigel Kingscote, K. C. B., was the President of the section which, like the one before-mentioned, transacted much important business, but offered very few papers appropriate for special Medico-Legal discussion. In that of George Fleming, C. B., F. R., C. V. S., on "The Propagation and Prevention of Rabies," the author recommends:

"1. Destruction of all dogs which are rabid, or which are suspected of being or becoming rabid. 2. The seizure and, if need be, destruction of all ownerless and wandering dogs. 3. All other dogs to wear a properly constructed and well-fitting muzzle while rabies prevails, and also for a period equal to longest interval of latency after the malady has been suppressed. 4. The imposition of a tax upon all dogs."

Dr. Elizabeth Blackwell (London School of Medicine for Women), said:

"Two years ago I visited the Paris Institute. I went to see the dogs that had been made mad to produce the virus for the inoculation, and saw several in various stages suffering extreme agonies, and I wish to point out that the establishment of a Pasteur Institute involves the constant

producing of madness in dogs, and in a Christian country there ought to be no question in preferring muzzling as a preventive of the disease."

Dr. Roux, *Chef de Service a l' Institut Pasteur*, replied:

"I can say officially that dogs are not and never have been used in the production of virus for inoculation. Rabbits only are used."

Dr. Ostertag, City Veterinarian of Berlin, read a paper on "Regulation of Milk Supply with Reference to Diseases Transmissible by Milk," and suggested as a preventive:

"1. That all dairy-farms be licensed. 2. That all animals kept for milking be examined by a veterinary surgeon from time to time. 3. That the owners of dairy farms be bound to provide only good, undamaged fodder; further, to give immediate notice of the illness of any milch-cow to the attendant veterinary surgeon, and, until he gives leave, not to send the milk of the diseased animal to market. 4. That the business of milking be performed with the most punctilious cleanliness, and that no person suffering from any infectious illness be employed to milk. 5. That the mixed milk obtained by milking be cooled and stored in special rooms, not in living or sleeping rooms. 6. That it be transported only in suitable vessels. 7. That during the prevalence of aphthæ only boiled milk be brought into the market, whilst all milk which must be considered injurious be excluded from the provision market. Likewise at the outbreak of any epidemic in a house where dairy farming is carried on, the sale of milk be forbidden. 8. In obtaining the so-called milk for children, especially strict regulations be carried out as to the feeding of the milch cows, cleanliness in milking, and the cooling and proper mode of transport of the milk."

Francis Vacher, M. R. C. S., Medical Officer of Health for Birkenhead, read a paper on "The Inspection of Meat with Regard to the Prevention of Disease," in which he recommended:

"1. The general provision of public abattoirs. 2. Closing of private slaughter-houses. 3. Licensing and registering butchers and their premises. 4. Appointment of competent inspectors of meat. 5. General systematic inspection of animals and meat intended for food. 6. Appointment of competent assessors to sit with magistrates, and assist them, when necessary, in the hearing of cases relating to diseased meat."

### Section IV.—*Infancy, Childhood, and School-Life.*

The work of this section was marked by the large number of papers presented, and the striking coincidence of views expressed. While in a Medico-Legal sense much of great value was proposed, it would be manifest injustice to attempt

to extract from papers which, to be appreciated, should be read in their entirety.

Professor A. Jacobi, M. D., representing the New York Academy of Medicine, gave a study of "The Laws Regulating the Employment of Children in the United States," and set forth those enactments with which the members of your Society are familiar, and which were listened to here with marked attention.

George White, B. A., LL. B., Chairman of the Committee on Physical Education of the School Board for London, read a paper on "Physical Education," illustrated by calisthenic and other exercises, executed by a class of children under command of Miss Harrison.

William Mitchell, Esq., Vice-Chairman of the School Board of Glasgow, read a paper on "Neglected Children in our Towns and Cities," which he closed proposing:

"That a law be framed declaring that it shall be the duty of every parent to provide suitable and decent lodgings for their children, and that in no case shall girls over 12 years of age, and boys over 13 years of age, lodge habitually with their parents or guardians in a single apartment. If the parent is unable from poverty to provide sufficient lodging, application may be made to some properly constituted authority, and it shall be the duty of the said authority to pay the additional sum required, when satisfied of the inability of the parent to do so. The infringement of this law may be visited by suitable penalties."

The proposal was not seconded.

Mrs. Besant offered, and the Earl of Meath seconded, a motion, which was subseqeently amended to read:

"That this Congress, asserting the duty of the State toward its future citizens in the matter of education, declares that the feeding or clothing of destitute or neglected children is necessary for their efficient education. Where such destitution or neglect is due to the misconduct of the parent or guardian of the child, it is the duty of the legislature to visit that misconduct with penal consequences.

Dr. Kotelmann, Editor of the *Zeitschrift fur Schulgesundheitspflege*, Hamburg, offered, and J. P. Richards, M. R. C. S. E., seconded, a resolution, which was amended and carried *nem. con.* as follows:

"That this Congress appoint a commission, consisting of three persons severally conversant with mental diseases, education, and statistics, whose duty it shall be to enquire into mental feebleness in children, beginning with small districts, and continue and carry out the same according to a fixed plan. The Congress shall empower the commissioners to add to their number, and to appeal to recognized authorities for assistance if necessary."

Among the distinguished men who attended this section were Dr. Edward Gallaudet, President of the National Deaf-Mute College, Washington, and Dr. F. J. Campbell, of the Royal Normal College and Academy of Music for the Blind, Upper Norwood, London, South East. Sufficient can never be said of Dr. Campbell's work in taking the blind from their posts as beggars at church-doors, and raising them, from objects of charity, to active competitors with "sighted people" in the struggle for existence. Your delegate feels that all Americans share his pride in having two such illustrious countrymen, and while the blind in England are reaping the benefit of Dr. Campbell's glorious work, it is to be regretted that the land of his birth is deprived of the benefits given by his wonderful acumen, ability, and devotion to those who, without the results he attains, would call for pity and alms.

Dr. Campbell's motion, amended by General Moberly (adding "deaf and dumb" after "blind"), was carried *nem. con.*, exemplifying the spirit of his work:

"That the time has come when the blind, deaf and dumb should have a well-graded, practical, and comprehensive course of instruction; that the training of the blind should not be conducted on a charitable basis, but formed on a national system of education."

### Section V.—*Chemistry and Physics.*

The greater part of this section's important work was more strictly medical in its tendencies, and offered very few points for purely forensic consideration. Among those was a motion by Sir Henry Roscoe, seconded by Dr. C. R. Drysdale:

"That, in the opinion of this meeting the best yet known method of

disposing of the sewage of towns is that of purification and utilization on the land."

### Section VI.—*Architecture in Relation to Hygiene.*

This section, among other valuable work, passed the following resolutions:

"That special legislation to control the construction of block dwellings for the industrial classes in cities is requisite."

"That in the opinion of this meeting it is desirable that legislature should give power to County Councils for acquiring isolation hospitals and ambulance service in the interest of the counties, and to take over by agreement the existing isolation hospitals."

The resolution was amended:

"That the question be referred to the section on State Hygiene."

"That the members of the Architectural Section desire to consider the resolution adopted by the section on State Hygiene, approving of the statutory examination and registration of architects, before definite adoption by resolution of the Congress, and that they are of opinion that this question should have been referred to Section VI., Architecture in Relation to Hygiene."

### Section VIII.—*Naval and Military Hygiene.*

Dr. V. Vignard, of Paris, in his paper on "Quarantine and Medical Inspection," said:

"Quarantine is not opposed to medical inspection; each comprises the two essentials of isolation and disinfection. The two systems differ only in the relative application of these details. In quarantine, isolation; and in medical inspection, disinfection, is the dominant idea. The two methods should be merged into a single system, of which disinfection appropriately employed according to the requirements of each case should be the essential characteristic. The word quarantine, implying as it does a traditional usage dependent mainly on isolation, should be abandoned by sanitary authorities. Rigorous scientific experiments should be instituted with the object of discovering a certain and rapid means of disinfection applicable to ships, with their cargoes and equipments."

### Section IX.—*State Hygiene.*

Regarding the "Sale of Poisons," Dr. George Danford Thomas, Coroner for London and Middlesex, offered, and Dr. Littlejohn, of Edinburgh, seconded, the following resolution, which was carried:

"That, in the opinion of the International Congress of Hygiene and Demography, it is essential, in public interests, that the existing law regulating the sale of poisons should be amended, and grater restrictions

placed on the sale of poisons, and this especially in Great Britain and her colonies."

The discussion on "Cremation" was very animated, and closed with the adoption of the following resolutions:

"1. That Governments should be urged to remove all legislative obstacles to the cremation of bodies."

"2. That Governments should be urged to adopt cremation of bodies on the battle-field."

"3. That the cremation of the dead is a rational and hygienic procedure, which is especially called for where death occurs from contagious disease."

Concerning "Infectious Diseases," Dr. Currie, of New Brunswick, moved, and Dr. Fartell, of Halifax, N. S., seconded:

"That in the opinion of this section notification of infectious diseases should be made compulsory on the medical attendant and householder in whose house the disease occurs."

### Division II.—*Demography.*

The papers read and discussed in this division covered so much learning and such vast fields that your delegate cannot make even random extracts from them without far exceeding the space allowed. And the subjects presented are too important in every sense to risk garbling them by mere extracts that could not even suggest their true bearing.

### Registration of Plumbers.

A special meeting of the Congress, held on August 12th, passed the following resolution:

"That this special meeting of the International Congress of Hygiene, assembled to consider the necessity for securing the great sanitary efficiency of the plumbers' work and drainage of dwelling houses and other buildings, desires to record its opinion that an organized and efficient system of ragistration of qualified plumbers is essential to the protection and preservation of the health of the community; that such a system having been established in the chief cities and towns of Great Britain and Ireland by the joint action of the Worshipful Company of Plumbers, London, and the plumbers and sanitary authorities of those places, the time has now arrived when application should be made to Parliament for powers enabling a council of competent jurisdiction and authority to take measures for systematically promoting technical education among plumbers in all parts of the United Kingdom, and regulating the practise of those plumbers who are enrolled as registered plumbers."

### The Transactions of the Congress

will be ready for distribution by the end of October. The price of the volume, to non-members of the Congress, is £1 (one pound sterling.) Applications for copies should be made as early as possible.

*Public Health*, the journal of the Society of the Medical Officers of Health, was made the official organ, and issued daily numbers containing reports of the work of the Congress. These six numbers are now revised and bound together in one volume, and sold for three shillings and six pence.

*The Lancet* and the *British Medical Journal* also issued special numbers (at six pence each), containing excellent reports of this Congress.

### The Entertainments.

Painfully conscious that the preceding is by no means a fair report, your delegate finds that the space allowed him is consumed. Therefore he must with regret abstain from even a faint outline of the vast number of good things provided for the creature comforts and pleasures of those who attended the Congress. Hospitable London outdid itself, and even Mr. and the Baroness Burdett-Coutts, whose receptions have always been the most sumptuous given here, at their garden party for the Congress cast into shade all their own preceding magnificent, truly regal entertainments.

I thank the Society for the honor conferred upon me, and regret that the very agreeable duties it entailed were not placed in more capable hands.

# HYPNOTISM AND THE LAW.

BY PROF. JOHN J. REESE, M. D., OF PENNSYLVANIA.

CLARK BELL, ESQ., PREST. MED. LEGAL SOCIETY.

*My Dear Sir:*—In accordance with your request to express my views more particularly upon the legal questions asked in the report of the "Committee on Hypnotism," I beg leave to submit the following. But first, I must confess to a very limited personal experience in this matter, most of my knowledge having been derived from the study of the reports of different French writers within the last few years.

This is a profoundly interesting subject, whether regarded from its psychological or medico-legal standpoint. It is moreover destined, doubtless, to play an important rôle in our criminal jurisprudence.

At first sight, there would seem to be a very positive antagonism between the two learned schools of La Salpetrière and Nancy on this subject—the one asserting that hypnotism is a true pathological condition, the other contending that it is simply a perverted psychological state. I am inclined, after due reflection, to adopt a somewhat modified view, embracing partially the theories of both the learned professors, Mm. Brouardel and Liegeios; believing, with the former, that there is more or less of a pathological alteration in the ultimate cells of the brain of the subject; and, with the latter, that there is always present an abnormal psychological condition. Nor do I consider that this view of the subject is to be regarded as a compromise between the two above-mentioned opposing schools, but rather as an attempt

to reconcile their apparently divergent opinions, if only looked at from my own standpoint. I have long held the opinion, first promulgated, I believe, by the distinguished physiologist Mülder, that every alteration of function in the animal body necessarily involves some change in its structure; but this is often so slight, (as where the functional derangement is only trivial and temporary), as quite to escape all observation, even when aided by the best artificial appliances. These metabolic changes, as we know, are incessantly going on during life, accompanying both our physical and mental activities. Let us take an illustration from insanity. Admitting that this is really a disease of the brain (not of the *mind*, as is often erroneously stated), perfectly demonstrable in many cases, even of incipient insanity, by an abnormal condition of the brain-cells, but still more so in the chronic disorder—so that it is now an admitted fact that all insanity must be accompanied by some alteration of brain-structure—we are still compelled to admit our inability to recognize this structural change in the brain-cells in every case, even with our best instruments; nevertheless, we feel justified, from our other observations, to admit its existence even where our human limits fail to discover it.

Now, from this analogy, may we not argue that any abnormal psychological state of an individual must necessarily involve some structural alteration in the cells of the great nerve centre, although, perchance, this is so recondite as to fail to be detected by our finest instruments, or most delicate reagents? This, then, may surely be regarded as a true pathological state; and such a conclusion, moreover, does no violence to the very pronounced views of Prof. Liegeios and the school of Nancy.

I confess to being somewhat credulous as to the statement of the last mentioned school, of the large percentage—ninety—of the human race that are "subject to hypnotic influences;

and that at least fifty per cent. can be placed in the somnambulistic state." I think this is a highly exaggerated statement as applied indiscriminately to men, women, and children, at least in this country.

Now, as to a more categorical answer to the legal questions proposed in the Committee's Report. (1.) I believe that in every criminal case (as the *affaire Bompard*,) where hypnotism has been concerned, that "the operator used undue influence to gain control over" the subject. I have never heard of a case where the "sensitive sought the operator," of his or her own accord, for "suggestions," much in the same way that a murderer would attempt to fortify his courage by a previous free use of intoxicants. (2.) "Proper witnesses" should undoubtedly be present, in order to give testimony subsequently, at every alleged hypnotic seance where "suggestions" were employed, in every criminal case concerned. This is a point of great importance in criminal jurisprudence, and one that will require careful sifting by the judicial authorities. The mere allegation that such influence has been employed, unsupported by credible testimony, should not be received. (3.) All "possible elements of error" should certainly be "eliminated." (4.) Questionable how far, if ever, "hypnosis is a justifiable inquisitorial agent," any more than modern spiritualism, although I, by no means, place them on a par; since I do believe that, under peculiar, receptive, conditions, the mind of the subject may be influenced and controlled by the mind of the operator. I would not absolutely deny the possible propriety of employing hypnosis as "an inquisitorial agent" in some very exceptional cases. Questions 5 and 6 I would answer in the negative. (7.) There should be, in my opinion, "legal surveillance over private experiments and public exhibitions." This is quite too dangerous a tool to be handled indiscriminately by the ignorant or designing.

# EDITORIAL.

## IMPORTANCE OF OBSERVATION OF ALLEGED LUNATICS IN CRIMINAL CASES.

Dr. J. F. Miller, Medical Superintendent of the Eastern North Carolina Insane Asylum, recently wrote the editor of this journal a letter, from which the following extracts are made:

Hon. Clark Bell:

*My Dear Sir:*—Having recently testified as an expert in a murder case in which the plea of insanity was made, I have been impressed with the necessity of a law authorizing the Court in *all such cases, where there is a grave doubt as to the mental condition of the accused*, authorizing a committment to an Insane Asylum for intelligent observation for a specified time. If such an one be insane, the asylum is the place for him. If the accused be feigning insanity, I respectly submit that an asylum is the best place to detect the malingerer. You are fully aware that so-called expert testimony is, before some Courts, held in contempt, and why? It is needless to go into all the reasons, or to describe what is so familiar to you, the manifold forms of insanity, difficult often to detect except by frequent contact. But I will say that, frequently in doubtful cases, medical gentlemen have not at the time of testifying, nor previously, had sufficient time for observations to testify intelligently in so important a matter as that which involves the life or death of a fellow mortal. Again, a sharp fellow with such a powerful motive as that which would naturally move one whose life is in jeopardy, can feign insanity sufficiently well to often cloud the mind of witness and jury, and thus escape merited punishment. The plea of insanity is in this country sometimes made as a mere dodge or evasion by many bad men, and I have thought proper to submit briefly and very crudely my suggestion to one whom I esteem competent to judge of such matters. I anticipate the objection that, were such a ruling authorized to be made by our Courts, it would prevent many cases of feigned insanity from succeeding, for sooner or later, however adroit might be the counterfeit, the ears of the ass would reveal themselves above the skin of the lion and show unquestionably what manner of creature he is, and settle byond question whether the accused was shamming or insane. I will thank you for your views in this matter.

Dr. Miller calls attention to a recognized fault in our system of criminal jurisprudence.

The theory of observation of the accused in this class of cases is well recognized in Germany, in France, and in many continental countries in doubtful or obscure cases of alleged insanity.

There is really no objection that can fairly be raised to such a provision as Dr. Miller suggests.

All alienists would unite in the wisdom of conferring this power upon the presiding judge in capital cases, and even under our system, the prosecuting counsel can and frequently does place suspected malingerers under observation in the prisons.

The danger would be, not in cases when the accused was really insane, but of escape by the artful malingerer who could more easily evade the vigilance of asylum superintendents than of prison officials.

The general principle for which Dr. Miller contends is unquestionably sound, and our criminal jurisprudence would be on a higher plane, if such power was conferred upon the judiciary, in all that class of cases where grave doubts existed in obscure or doubtful cases, as well as that of suspected malingering.

Apropos of this discussion. The opinions of members of the Medico-Legal Society upon inebriety and responsibility, given in 1887 and published in this journal, of Clark Bell, Thwing, Ellinger, Burnett, Kerr of London, Hughes, Baker, Davis, and other, were reviewed by Ascher in *Centralblaat*, of Nerverh, in 1889, and the questions raised discussed from the German standpoint, regarding the American jurisprudence of inebriety.

Dr. P. Kereval, an able critic and reviewer of the editorial staff of the *Archives of Neurology*, of Paris, in the last number of that journal, in commenting upon Dr. Ascher's review, says:

"The law should preserve human society. The drunkard is respon-

sible if he provoked his drunkenness by his own act; but the insane man is not responsible."

By American law, as well as English, the inebriate is not held responsible for acts committed in the frenzy of delirum tremens, and this quite independent of whether his condition was caused by his own act or not.

Is this not true in Germany?

In all countries the distinctive element of crime is *intention*. *Motive* must be shown.

The hardship of the old law that the drunkard must answer for his acts, though even unconscious at the time he committed them, ignored the fundamental principle of *intention* as an essential element of crime. It was relegated to constructive intention, where he became drunk with a knowledge of what might follow; but is that an intention to actually commit crime?

Both English and American Courts are changing views on this subject just now.

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## INEBRIETY AS A DEFENSE IN HOMICIDAL CASES.

Mr. T. Crisp Poole, barrister-at-law, at Brisbane, Australia, replies to the criticisms made by Mr. A. Wood Renton, of the London Bar, respecting the position taken by Mr. Poole in a paper read before the Medico-Legal Society, and published in this journal in June number, 1890.

I take pleasure in inserting his letter:

To The Editor of The Medico-Legal Journal:

*Sir:*—In a short article appearing in the Medico-Legal Journal for December, 1890, Mr. A. Wood Renton has challenged the accuracy of the assertion of my article appearing in June, 1890, that the mere state of inebriety is not recognized as an excuse for crime by the law of Great Britain. I thank this gentleman for his criticism, but in reply thereto I would point out that the case which he alludes to by no means tells against the principle which I had dealt with. The Aberdeenshire proprietor, whom Mr. Renton mentions, was certainly not exculpated on the plea of *mere* drunkenness. The books cited by the learned contributor are unfortunately inaccessable to me, but, according to the statements of his own article,

there were many circumstances which influenced Lord Deas in the case which he relies upon, besides the mere fact of inebriety. The prisoner had been reduced to a state of mental weakness by many years of excessive drinking, and he was regarded at times as "not quite sane." He had probably had a sunstroke in India, and he was liable to (probably) epileptic fits. He had also had repeated attacks of delirium tremens. And even all these considerations did not procure his complete acquittal, but only a reduction of the verdict from murder to culpable homicide. It is clear, therefore, that the prisoner was not excused through the mere ground of inebriety, but because he was habitually in a state of mental weakness, though that weakness may have been the consequence of excessive drinking, (see remarks under the heading, "Criminal Responsibility of Drunkards," *Taylor's Medical Jurisprudence*, 3d edition, vol. 2, p. 582.) I did not assert that mental weakness, whether from dipsomania or any other cause, would not palliate an offence committed under its influence, but simply that mere intoxication, pure and simple, was not recognized as a defense after a crime had been committed. And I know of no case, whether from the United Kingdom, Australasia, or America, in which it has been held (setting aside the question of intent) that a man whose physical and mental faculties were, when sober, in good condition, was exonerated from the consequences of a crime simply because he was intoxicated when he committed it.

I remain, Sir, yours faithfully,

Brisbane, July, 1891. T. CRISP POOLE.

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## THE INTERNATIONAL CONGRESS OF MEDICAL JURISPRUDENCE OF 1892.

The following additional contributions of papers for this Congress are announced:

By Dr. Charles H. Hughes, of St. Louis.—"Change of Character, without Adequate External Indications still the Best Criterion of Determining Insanity."

By Dr. S. V. Cleveriger, of Chicago.—"Testamentary Capacity."

By Prof. S. Tucker Clark, of Lockport, N. Y.—"People *vs.* Spechtel Medico-Legal Aspects of Case."

By Dr. Daniel Clark, Toronto.—"Legal and Medical Definitions in Respect to Insanity and Responsibility."

By Prof. Dr. H. Kornfeld, of Silesia.—"Love and Insanity."

A strong feeling exists in many quarters in favor of postponing the Congress to 1893, the year of the Columbian Ex-

position at Chicago, and to hold it in that city, providing our Chicago confreres are willing to take the laboring oar in that event.

When the date of the Congress was fixed in 1892, it was, of course, upon the assumption that the Exposition would be held in that year as then announced.

It would draw more strangers from foreign countries, it is claimed, to postpone the session, whether it was held East or West.

The subject was originally referred to the President and officials, by the original Congress of 1889, and Vice-Presidents of the Congress and its members generally are invited to write the President their views upon the subject.

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## THE BULLETIN OF THE CONGRESS OF 1889

is now ready, and has been sent to actual subscribers Those who wish this volume will do well to apply, forthwith, because the edition printed was small, and less than the membership of the Congress. Newly elected members, or members of the Society who did not enroll in the Congress, can secure it only by at once forwarding their names, as it is likely shortly to be out of print, owing to the smallness of its edition.

The price to subscribers and members is only $3 for a copy.

A list will be kept of subscribers in the order of their reception, and those failing to apply at once should not censure us if they are unable later on to secure copies.

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## SCIENTIFIC PROGRESS IN ENGLAND.

The most prominent event of the summer vacation in England has been the 7th International Congress of Hygiene and Demography.

We give the report of Dr. Ferdinand M. Valentine, one of the delegates from the Medico-Legal Society to that Congress.

Great Britain has not hitherto given that attention to such gatherings that other peoples have done.

At the Paris Congress of 1889, while all the world was represented, the British physicians and scientists, with rare exceptions, were absent.

In such great gatherings they were not missed, and the loss was wholly on their side.

This year's gathering in London is a natural result of their increasing knowledge of the value of international scientific exchange of thought and knowledge.

It has been the most notable, most important, scientific convocation held in the British Islands within the last decade, if not within the last quarter of a century.

The world moves on. Italy has occupied foremost positions in recent years in most of the fields of scientific thought and inquiry.

France has maintained a superb position in the vanguard of scientific progress. Germany has well deserved the proud and commanding position she has won from the recognition of the savans of the world, and all in advance of the English scientists.

Scotland has maintained an ascendancy in many departments of science over their southern brethren of the same tongue, well recognized where ever students of the sciences go for learning.

The progress of events and the march of civilization has stimulated Englishmen to advance their standards, and we regard the recent Congress as one of the proofs and fruits of a laudable and praiseworthy attempt to rouse Englishmen out of the lethargy of their recent past, which tells of greater and better work in the near future.

## SERIES FOUR, MEDICO-LEGAL PAPERS.

Series 4, Medico-Legal papers, will shortly be issued. It will contain a large number of illustrations, aside from the papers, and will be in style like the 3d edition of Series No. 1, Medico-Legal papers, recently issued.

Libraries, and members of the Society, active, honorary, or complimentary, who wish to secure this volume, should register their names, as an edition of only 400 will be published, and the work, like the early edition of Series No. 1 and 2, will be out of print very shortly.

The attention of new and corresponding members is called to the wisdom of at once registering names for the volume. Price, $3.50 in muslin; $2.50 in paper.

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## DR. CARL H. HORSCH.

We learn with deep regret of the death of this distinguished man by suicide, as we suppose, during temporary aberration of mind.

Dr. Horsch was born in 1823 in Saxony. He was educated in Leipzig and Prague and did service in the army of Saxony as surgeon. He came to Dover, New Hampshire, when 31 years of age. In the war of the Rebellion he served as surgeon in the 15th New Hampshire Volunteers, was a member of the Grand Army of the Republic, and of the New Hampshire State Board of Health.

He united with the Medico-Legal Society some years ago, and took an active part in the International Congress of Medical Jurisprudence of 1889, to which he contributed and read a paper, entitled "License Laws," and he was elected by that body to the position of Vice-President of that Congress, for New Hampshire.

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## THE LUNACY LAW OF ENGLAND.

At the meeting of the section of Psychology of the British

Medical Association, the President, Dr. P. Maury Deas, assailed prominent features of the new Lunacy Bill. In the discussion which followed Dr. John C. Bucknill defended the act. He said he considered the Lunacy Act of 1890 a great reform, and that he quite dissented from the tone of blame of it which ran through the President's address. Drs. Savage, Dr. Nicholson, of Broadmoor, Dr. Needham, Dr. Langdon Down, Dr. Stanley Haynes, Dr. Outterson Wood, and Dr. Farquarson spoke, as did most of the members, against objectionable features of the act, and various amendments were suggested.

Dr. George H. Savage read a paper on "Environment and Heredity as Causes of Insanity," and combated the popular idea that all insanity was due to neurotic heredity. Professor Benedict, of Vienna, dissented, and said that, much against his earlier views, he had been compelled by his own observation to come to the opinion that, at least in Austria, heredity, as a cause of insanity, was increasing. An interesting discussion ensued, in which Dr. Mercier, Dr. W. Wallace, Dr. Fletcher Beach, Dr. Neech, Dr. Warner, and Dr. Nicholson participated, the general tone of which was that heredity was an important factor as a cause of insanity.

## HYPNOTIC SUGGESTION AND CRIME.

Dr. A. Voisin, of the *Salpetriere*, Paris, read a paper before the section of Psychology of the British Medical Association favoring the doctrine of the Nancy School of Observers, that crime could be thus committed. He cited cases. 1. Of a woman, who, in the presence of three magistrates, followed Dr. Voisin's suggestion, while hypnotized, to stab a woman in bed with a real knife, and conceal the fact. The direction was carried out on a manikin, prepared for the purpose.

She denied all knowledge of the act, but confessed all when hypnotized three days later, and said that Dr. Voisin had ordered her to do so, but when not hypnotized denied all knowledge of the matter.

The same woman, two days later, was ordered to set fire to a heap of papers in a court yard in Paris at a certain hour, while hypnotized, which order she carried out at the time indicated, and ran away as fast as she could after so doing. A fortnight later, while in the hypnotic sleep, she recounted to Dr. Voisin what had taken place without regret or remorse.

This woman was a neurotic with delusions, with hysterical mania, had attempted suicide and to kill her children. Dr. Voisin asserted that she had been entirely cured by means of hypnotism.

Dr. Voisin contended that judges must recognize such facts, and enquire whether accused persons were acting under suggestion while in the hypnotic state.

He also asserted that sure detection would follow, if the patient was hypnotized, and make full confession.

Dr. Benedict, of Austria, in discussion of Dr. Voisin's paper, said that he had studied hypnotism since 1867, and had used it as a remedy since 1878. He doubted if real manslaughter could be thus committed, while it could undoubtedly be simulated in a parlor.

He alluded to the danger of criminals seizing upon this idea, and accusing innocent people.

He claimed its value as a therapeutic and remedial agent, but that it had its dangers, and should be rarely employed.

Mr. Ernest Hart defended Dr. Voisin's paper, and strongly criticised Dr. Benedict's theories and belief, as not meeting actual facts, such as related by M. Voisin, and which he had seen Prof. Degerine, Prof. Charcot and his students, and others do. Facts were higher than opinions. The

question was not whether hypnotic suggestion was more harmful than useful. It was idle to give an opinion that such cases could not exist, when such cases were constantly occurring and could be demonstrated. Dr. Draper, of Huddersfield, said he had tried it for twelve months, with wonderful results, and claimed that at least seven or eight out of every ten persons could be favorably treated by hypnosis, as a therapeutic agent, and that full hypnotic sleep was not always necessary for favorable results. An extended discussion ensued, in which Dr. WILBERFORCE SMITH, Dr. OUTTERSON WOOD, Dr. DOUGLASS, Dr. REGNIER, Dr. NEECH, Dr. BRIDGWATER, Dr. NICHOLSON, and others, participated, and a resolution, opposing popular exhibitions of persons under hypnotic influence, was adopted after considerable discussion (*British Med. Journal*, Sept. 12, '91).

## ALIENISTS AS PHYSICIANS IN PRISON.

The Belgian Government has taken an advance step in the prisons of that Kingdom. MONSIEUR JULES LE JEUNE, Minister of Justice, on March 21, 1891, recommended to the King the establishment of alienists as physicians to be attached to each prison, to have charge of all prisoners showing symptoms of mental alienation.

On May 25, 1891, he announced the decree, which divides the Belgian prisons into three grand districts:

1. Embraces all the prisons of Ghent, Termonde, Audenard, Bruges, Courtrai, Furnes, Ypres, Antwerp, Molines, and Turnhout.

2. The prisons of Louvain, Liege, Verviers, Huy Arlon, Marche, Neuf-Chateau, Tongres, and Harsett.

3. Those of Brussells, Saint, Gillies, Nivelle, Mons, Charleroi, Tournai, Namur, and Dinant.

In each of these departments or districts the Government has named one of the most eminent of the Belgian alienists,

who has jurisdiction of his department under the directions of the Minister.

They can be summoned by the Warden of the prison when inmates show signs of derangement, and must examine and report to the Minister of Justice.

In the 1st Department Dr. Jules Morel, Sup't of Hospice Guislain, has been appointed.

In the 2d Prof. Masoin, of the University of Louvain, is the appointee, and in the 3d, Dr. Semal, Sup't of the Insane Asylum at Mons, has been named.

The June number of the *Bulletin of the Society of Mental Medicine* makes the announcement, and publishes the official report and decree.

This action must attract great attention abroad.

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## INEBRIETY AND LEGISLATION.

The *Daily Telegraph*, of London, has recently conducted a remarkable public discussion on "The Slavery of Drink," in which the editorial writers of the *London Times* and other journals participated. While the discussion took wide range, some salient features are worthy of notice.

1. It was very generally conceded that the state of habitual drunkenness was unquestionably a disease, and that it should be regarded and treated as such.

2. The *Telegraph* editorially calls on the State to recognize this fact, and provide public special institutions for the care and treatment of the unfortunate poor, thus afflicted, as a necessity for the public protection and the good of those thus suffering, and the *London Times* advocates that certain cases of uncontrolable inebriety should be regarded as insane, and treated as such.

The English medical men and press take similar grounds, and Great Britain is grappling now with the legal side of

problems which have so long attracted the public mind of the civilized world. The condition of various countries, and the legislation in force and contemplated, have been reviewed in this agitation. In all the Scandinavian countries restrictive legislation has been successfully adopted. In towns a company is given the privilege of sale, which company pays its stockholders a fixed rate of interest, and the surplus is devoted to either charitable institutions or the municipality. This is the rule in Norway, where the hours of sale are fixed and limited by law, and, in all Scandinavia, the sale in groceries and shops is prohibited. In Germany a restrictive bill, approved by the Emperor and his ministers, will be laid before the Reichstag, which contains strongly restrictive clauses.

Holland has restricted the number of her licenses, while in Switzerland the State has the monopoly of all sales, and pays 10 per cent. of the surplus to the cantons, who expend it upon those who have been the chief sufferers from its sale.

We shall watch the English movement with deep interest.

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## CREMATION.

Sir Spencer Wells has brought this subject to public attention in the most forcible manner, as President of the Section of Public Medicine at the session of the British Medical Association, at Bournemouth, last July. He reviews the labors of the Cremation Society of England, and its crematory at Woking, England. The decision, in 1884, of Sir James Fitz James Stephen, at Cardiff, overcame at last the opposition of the English Government, and in 1885 the first cremation occurred at Woking; 10 were cremated in 1886 at that place; 13 in 1887; 28 in 1888; 46 in 1889; 54 in 1890, and 60 to the end of June in 1891.

Sir Spencer claimed that burials in cemeteries were beyond all doubt—

1. A danger and constant menace to the living.

2. He quoted the labors of Pasteur and Darwin to show that the microbes of infectious diseases were spread from the earth coverings of cemeteries, and—

3. Cited numerous authentic cases where Scarlatina, Diptheria, the Plague, Yellow Fever, and other diseases were spread from cemeteries after years had elapsed.

The observations of Dr. FREIRE demonstrate the spread of yellow fever after long lapses of time from cemeteries, and Dr. CRUDELI, of Italy, has demonstrated that the specific organism of the malarial fever of the Campagna does increase and multiply in the soil, and while Sir SPENCER WELLS distinctly recognizes and frankly admits the importance of the Medico-Legal objection to cremation, in cases when crime has been committed, or there is good reason to suspect its commission, he properly contends that suitable regulations can and should be made and adopted, which would meet every such case.

Dr. ROBERT FARQUARSON strongly supported Sir Spencer's views, and alluded to the stronger reasons now that the bacilliary origin of disease and the action of earth-worms had demonstrated the unsafety of earth burials as a protection.

Sir WILLIAM MOORE stated that the expense of cremation in India was now only two and a half rupees, or about $1.25 each. The minimum expense of Woking was £3, 16s., and he favored a great reduction in cost. He cited a case where turning up an old cholera burial ground in Southern India was followed by an outbreak of cholera among the workmen. He cited also another case where the railway workmen tapped a very clear spring of water, which the laborers drank, and this was followed by an outbreak of cholera. Investigation showed that an old cholera burial ground was

in the immediate locality. He quoted also the case at Quebec of opening a small-pox burial ground 150 years old, followed immediately by small-pox breaking out among the workmen.

Dr. STANLEY HAYNES said it cost Glasgow 11s. 6d. to bury each pauper, and that cremation should only cost 2s. 5d. He claimed that in Glasgow, where the question had been agitated, the clergy generally opposed it.

Mr. ERNEST HART, one of the founders of the original society, made a very interesting contribution to the discussion. He explained how Lord Cross, as Home Secretary, had thwarted the success of the society and its work.

He told the story of the Aldgate pump, which was found upon analysis to contain large quantities of organic matter from a close-by unused cemetery, that by percolation from the putrified bodies gave the water a peculiarly agreeable taste, and which was abolished with the greatest difficulty, and then only on a compromise by which the corporation could furnish the water as before, but supplied it by a pipe from another source unknown to the general public.

Mr. Hart spoke of Japan and the crematory at Tokio, where about 30 bodies were cremated daily, and showed that cremation now had already a strong foothold in Japan, where a few years since it had been forbidden under an order from the Government, which was in force some twelve years prior to its rescission in 1887.

It is there done by a private corporation at a cost of 5s. to 7s. English, or for $1.25 to $1.80 each. He thought it would come into general practice sooner in Japan than elsewhere.

Many others spoke.

Sir SPENCER WELLS, in closing the discussion, said: That the clergy of the Church of England were *not* opposed to cremation; that out of 150 he had interrogated, only two dissented.

The following resolution, proposed by Sir. SPENCER WELLS, and seconded by Dr. J. COMYN LEACH, was adopted:

"*Resolved*, That this meeting disapproves the present custom of burying the dead, and desires to substitute some mode which shall rapidly resolve the body into its component elements, by a process which cannot offend the living and shall render the remains absolutely inocuous. Until some better method is devised, the meeting approves that usually known as cremation, and would encourage public bodies in obtaining power to erect crematories out of public funds."

Dr. T. W. G. NUN moved, and Dr. FARQUARSON seconded, the following resolution, which was adopted:

"That this Section, learning that public corporations and other local authorities desiring to erect crematories are impeded or prevented from doing so by the present state of the law, request the Parliamentary Bills Committee to take that subject into consideration, and to adopt the necessary measures to procure a change in the law."

No such legislation is necessary here, at least in New York, at present.

The importance of a proper disposition of the dead is a question of enormous consequence to the City of New York. The system of burial now in vogue for the burial of the pauper inmates of the hospitals is one that, aside from its revolting character, is a great menace to the public health, as practiced. That system is to dig a trench, into which the coffins are placed, one on top of each other, four deep. The earth covering is not an adequate protection at all. We understand that a similar practice obtains in burying the poor of New York in Potter's Field. How infinitely better would it be for the city to erect, at once, and conduct, a public crematory, and cremate all these bodies.

What objection could be raised against cremation in the disposition of the dead of the pauper class, as against such a system as is now practiced with the dead bodies of the poor of the City of New York?

The Commissioners of Charities and Corrections should look at this question from a broad and comprehensive standpoint, and for the protection of the public health and safety.

Cremation would be a beneficence and a benefaction, at least in New York City, to this extent at least, and from sanitary considerations would be of the last importance to the living, now and in future, who reside here.

## STATE LUNACY COMMISSION OF NEW YORK.

The Board has called on each institution for care and treatment of the insane to send a representative to meet the Commission on the second Thursday of May and November in each year.

On June 24th the Commission fixed uniform books and records for every asylum in the State.

At the same session a circular was sent out admonishing extra precautionary measures regarding fires.

An order has been made permitting State Hospitals to take private pay patients at not exceeding $10 per week, but only where vacancies exist, and not to the exclusion of the insane poor.

At a general conference held July 14, '91, at New York, between the Commissioners and representatives of the various State Hospitals, committees were named to consider various subjects and report at an adjourned meeting to be held in October at Binghamton. These committees were selected from the boards and staff of the several institutions.

## MISSISSIPPI VALLEY MEDICAL SOCIETY.

The seventeenth annual session is announced for St. Louis October 14 to 16, '91. Forty-nine papers are announced, among which we notice the following of interest to students of Forensic Medicine:

1. "The Toxic Effect of Tobacco Vapor; with Report of Cases." W. Carroll Chapman, M. D., Louisville, Ky.
2. "The Influence of Graveyards on Public Health." J. W. Carhart, M. D., Lamassas, Texas.
3. "Tobacco and Insanity." Ludwig Bremer, M. D., St. Louis, Mo.
4. "Forensic Aspect of Bruises and Fractures in the Insane." J. G. Kiernan, M. D., Chicago, Ill.
5. "Hystero-Epilepsy." Howell T. Perching, M. D., Denver, Colo.
6. "The Time and Place for Stimulants." Charles H. Hughes, M. D.

## ELECTRICAL EXECUTIONS.

Through the courtesy of Dr. CARLOS MACDONALD, we are enabled to furnish our readers with a copy of the complete report made to the warden of Sing Sing Prison by Drs. MACDONALD and WARD, of the recent executions made under the new law of four men convicted of murder.

This report, which we understand was made upon the request of Governor Hill, may be regarded as official, and will serve the very good purpose of furnishing undisputable evidence of the fact—

1. That the deaths were painless and the victims unconscious from the instant of contact.

2. That they were certain, and unattended with any of the revolting scenes so frequently witnessed at the scaffold.

3. That the method is humane, so far as inflicting physical pain or suffering, and, from all sides considered, infinitely preferable to the death by hanging; and that so long as capital punishment for murder exists in New York, we need not desire to change the method of punishment.

The opponents of this measure, aside from those who oppose all forms of capital punishment, have been certain interests connected with public journals, who claim to feel that the publication of sensational details of executions are necessary for the public taste. We do not understand them to claim that it is for the public welfare.

There is a morbid taste for this sort of information in low minds. It cannot be denied. It is not, of course, the majority of good citizens who care for this kind of publication. Indeed, the better classes and right-thinking people would shrink from revolting details, but there is a large class who would buy newspapers, no matter how disgusting or revolting the accounts were made. *Hinc illæ lachrymæ.* A resolute effort will be made at the next session of the Legislature to repeal those sections of the law that interdict

publication in the press. The clamor has been so great that the candidates of both political parties for Governor are announced as favoring such an amendment. We see no reason, connected with the public welfare, why such a change is necessary.

If any legal control can be exercised properly over the press, we think the State has the right to exercise it in such a case.

Italy has just abolished capital punishment entirely. She has substituted in its place solitary confinement, with complete isolation from mankind, so far as practicable.

Her legislators have concluded that the death penalty in any form, has, by the experience of mankind, ceased to be a force as a deterrent against the commission of crime.

If our people shall deliberately come to that conclusion, they may decide to abolish the death penalty, because it has ceased to accomplish the end for which human punishment in capital cases was created.

Until that hour, the civilization of our era can offer no mode of death for criminals more creditable, decent, and complete than electrocution, and none so free from objectionable and revolting consequences, or more painless and certain.

ALBANY, N. Y., July 30, 1891.

HON. W. R. BROWN, Agent and Warden, Sing Sing Prison, Sing Sing, N. Y.

*Dear Sir:*—The following is a supplementary report of the details of the executions which took place at Sing Sing Prison on the morning of July 7, 1891.

In all these cases one electrode was so applied as to cover the forehead and temples, and the other—a larger one—the calf of the right leg, except in the case of Joseph Wood, in which it was applied to the left leg, in consequence of the existence of an ulcer on the right one. The electrodes were thoroughly wet with a solution of salt and water before the current was turned on, and were moistened at intervals, when the current was interrupted, with the same solution thrown on them from a syringe.

James J. Slocum entered the execution room at 4:33 A. M., and passed at once to the chair, accompanied by his priest, and occupied with his devotions. The restraining straps and electrodes were adjusted expeditiously and without resistance, and the electric circuit was completed for the first

time at 4:36:40. The first contact lasted twenty-seven seconds, at the end of which time it was broken; but the pulse was still found to be beating strongly, and, between one and two minutes later, a noisy respiration became established with considerable regularity. The current was immediately re-applied, and continued for twenty-six and a quarter seconds, and was finally broken at 4:39. Respiration had then ceased entirely and permanently, and auscultation showed that the heart-beat had also ceased. The body was removed to the dead-house at 5 A. M. Four minutes later rigor mortis was found to be markedly developed in the right leg, and rapidly extended to all the muscles of the neck and trunk, appearing last in the arms.

Professor L. H. Laudy reports that the pressure in this case amounted to 1,458 volts.

After the removal of Slocum's body, consultation among the medical gentlemen present seemed to point to the unanimous feeling that it was quite possible that the long continuance of the current was not so important a factor in producing rapid cessation of the heart-beat as the sudden impact of making and breaking the contact, and for that reason the next execution was conducted a little differently.

Harris A. Smiler entered the room at 5:06:30 A. M. The first contact was made at 5:08:30 A. M., and continued ten seconds; was then interrupted to allow of wetting the sponges; was again made for ten seconds, and again the sponges were wet; and a third contact was made for ten seconds. Three contacts, of ten seconds each, were thus made, at the end of which time there was no effort at respiration, but the pulse was beating so firmly and regularly that it was deemed expedient to again close the circuit for nineteen seconds, at the end of which time auscultation showed that the heart had permanently ceased beating. This observation was confirmed by Doctors Ward, MacDonald, Rockwell, Barber, Daniels, Townsend, Allison, and Wilson in succession. The body was removed from the execution-room at 5:23 A. M. At 5:25 rigor mortis was well marked in the right leg, and proceeded to extend as in the previous case.

Professor Laudy reported in this case a pressure of 1,485 volts.

It will be noticed in the first case the current was applied for fifty-three seconds in all. At the end of that time respiration and the heart-beat had permanently ceased. In the second case, at the end of three contacts of ten seconds each, the heart-beat was still strong, and at the end of the fourth application, of nineteen seconds more, had permanently ceased. It would appear from this that the duration of the current was quite as important an item as the making and breaking of the contact. It was therefore determined to make the contact in the next case a little longer, interruptions being necessary to permit of moistening the sponges.

Joseph Wood entered the room at 5:32, and the electric current was completed at 5:34:40. Three contacts of twenty seconds each were made, at the end of which time respiration had ceased permanently; no pulse could be felt at the wrist, and no heart-beat was heard on auscultation, though it was listened for by Doctors Ward, MacDonald, Rockwell, South-

wick, Daniels, Allison, and Barber. An extremely fine, faint crepitation could be heard, but nothing else. At 5:53 the body was removed from the room.

Professor Laudy reported in this case a pressure of 1,485 volts.

Feeling that perhaps the contacts had been unnecessarily prolonged, it was determined to make them a little shorter in the next case.

Schichick Jugigo entered the room at 6:00:30 A. M. At 6:02:15 A. M. the circuit was closed for the first time, and three contacts of fifteen seconds each followed, with two intervals of twenty seconds each. When the current was finally broken a very slight fluttering was felt at the wrist, which observation was confirmed by Doctors Ward, Daniels, Rockwell, Wilson, and Townsend, and by Ward a second time.

In this case extreme heat was noticed in the region of the knee above the point where the lower electrode had been applied, and a thermometer held against the skin for only fifteen seconds ran up to 112°, the highest point it registered, while the sensation conveyed to the hand was such as to render it probable that the temperature had run up to the boiling point of water, if not higher. At 6:17 the chest was bared and the cessation of the heart-beat was confirmed by Drs. Ward, MacDonald, Cortelyou, Allison, Wilson, and Barber. The body was removed from the room at 6:24.

The pressure reported by Professor Laudy in this case was 1,485 volts.

From the experience had in these four cases we are inclined to the belief that, while unconsciousness was instantaneous and continuous from the first moment of contact in each case, yet, in order to insure that death supervene as speedily as possible, it is necessary to continue a current of the voltage employed in these cases for from fifty to sixty seconds. In each case the temperature of the water near to and at the edges of the electrodes was raised nearly, if not quite, to the boiling point, so as to blister the skin more or less extensively; there was absolutely nowhere any smoking, or charring, or burning.

The autopsies in all these cases were made as soon as could conveniently be done after the executions. On account of his reputation in this special line, they were intrusted to Dr. Ira T. VanGiesen, of New York. That of the Japanese, Schichick Jugigo, was made first, at 10 A. M., in the presence of Drs. C. F. MacDonald, S. B. Ward, and others. In this autopsy Dr. VanGiesen was assisted by Doctor Daniels.

Tuesday, July 7, 1891, 10 A. M. Present—Drs. Ira T. VanGiesen, C. F. MacDonald, A. P. Southwick, C. M. Daniels, H. E. Allison, Franklin Townsend, jr., L. V. Cortelyou, Hiram Barber, Henry Wilson, and S. B. Ward.

*Schickiok Jugigo.*—The post-mortem examination in this case was conducted by Dr. Ira T. VanGiesen, assisted by Dr. Daniels, and was held four hours after death. The pupils were alike and moderately contracted. The body was well-nourished and unusually well-developed. The anterior epithelial cells of the cornea had desquamated from the central portion by the action of heat. There was a bulging forward of the sclera of the left eye at the left sclero-corneal junction. Conjunctiva anæmic. The scalp and skin covering the neck had a dull purplish hue. The skin

of the anterior surface of the body was not discolored or ecchymosed. At the flexure of both elbows were a number of symmetrical linear ecchymosos, which were more marked on the right side. Also a curved, narrow ecchymotic line just below the outside of the right nipple. These probably were caused by the straps. At the posterior surface of the right knee-joint, and on the posterior and inner and upper surface of the calf, the epidermis was raised, wrinkled, and folded. At the flexure of the knee-joint the epidermis had been torn away to the extent of about an inch in diameter. The right lower extremity was flexed and bent more to the median line than its fellow. There was a slight discharge of thin milky fluid from the urethra, and some still remaining in the canal. A sample of this fluid was taken for microscopical examination. Post-mortem rigidity well-marked except in arms, where it was only slight. The whole posterior surface of neck, trunk, arms, and lower extremities was of a dull purplish hue. There were a few slight blisters on both temples and both cheeks and eye-lids. There were raised whitish streaks on both sides of the neck, just below the angle of the jaw.

The trunk was opened by a straight incision from the top of the sternum to the pubes. The fat was one inch thick over the abdomen. Muscles red and firm. Diaphragm at left side was found at the level of the sixth intercostal space, and on the right side at the fifth intercostal space. Portions of small intestine were taken for microscopical examination.

Examination of heart. Auricles and ventricles flaccid and in diastole, and filled with fluid blood. The larger vessels were tied and the heart removed. The left ventricle was well-filled with fluid blood, but no clots. The auricles were the same. The blood was of the same color in the left ventricle as in the right. Valves normal. On opening the vessels a large quantity of dark colored liquid blood escaped, half filling the pleural cavity. There were no pleural adhesions. Lungs perfectly healthy, but slightly congested.

The spleen was found to be of normal size, the capsule smooth, pulp firm and uniformly filled with blood, and the arrangement of the Malpighian bodies and splenic connective tissue entirely normal. The pancreas was perfectly normal, and a portion removed for microscopical examination. Liver entirely normal, and a portion was also removed for microscopical examination. The gall-bladder was filled with bile. Left kidney. The capsule was non-adherent. It was rather large, and the cortex of normal thickness. The kidney was uniformly injected, and the markings in the cortex were normal as to number and arrangement. The right kidney was the same.

The stomach was empty, the mucous membrane pale, the rugæ were well-marked and perfectly healthy. The intestines were healthy. The small intestines were filled with semi-fluid fæces. The large intestines were the same. The urinary bladder was normal and half-full.

Examination of brain. The brain was exposed by a straight incision of scalp over the vertex from ear to ear, and saw cuts through the skull at a slight angle, and at the level of the eye-brows. The scalp showed several old scars, and was slightly less adherent under those portions where the

electrode was attached. The skull was symmetrical. The *dura mater* was normal, and the vessels moderately dilated. The longitudinal sinus was found to be normal, and contained some fluid blood. The brain was removed in the usual way. The pia mater was uniformly thin and transparent; the vessels in a medium state of congestion; sub-pial fluid small in amount. Blood was everywhere fluid in the meshes of the pia mater. There was no apparent difference in that portion which the electrode covered. The vessels at the base were perfectly normal. The ventricles contained a small amount of clear fluid. The roof and floor of the lateral ventricles were normal. The ependyman was smooth and transparent. White substance firm. Gray matter normal in every respect. Floor of the fourth ventricle, at the upper half, contained some dilated vessels, and on the left side there was a minute, radiating petechial spot two m.m. in diameter.

The spinal cord was exposed in the usual manner. The external appearance of both cord and membrane was entirely normal, and the vessels containing, if anything, even less blood than usual, due probably to the short time that had elapsed between the occurrence of death and the holding of the autopsy. Sections half an inch apart showed nothing abnormal. A portion of both sciatic nerves was taken for microscopical examination.

Owing to the great length of time necessary to make this autopsy as completely and minutely as was done, and the subsequent careful microscopical examinations, it was not considered necessary to examine the brain and spinal cord in the other cases, especially as nothing of any importance had been observed.

*Harris A. Smiler.*—The same individuals were present as at the last autopsy.

Posterior surface of the body was of the same color and also showed the same blisters as in the case of Jugigo. The left leg showed some contraction.

The body was opened by the long straight incision, as in the case of Jugigo. The diaphragn was found at the left side at the sixth intercostal space, and on the right side at the fifth intercostal space. The left lung was slightly adherent at the apex. The heart was rather small. The left ventricle was somewhat firmer than the right, which latter was a little flabby. The auricles were distended with fluid blood. The right ventricle was empty and collapsed. The apex of the left lung was small and shrunken and retracted, and contained a few scattered, dense nodules, some of which were calcified. Otherwise the lung was normal, and resembled the preceding case. Right lung shows the same set of changes, but not so marked. Small ecchymotic spots (Tardieu's spots), were observed under the pericardium on surface of left ventricle. The walls of the ventricles were of normal thickness. There were signs of an old endocarditis below the aortic valves. All the valves were healthy. The spleen was small and the pulp soft and normal. The pancreas was normal. The liver was normal, both in size and texture.

The left kidney was greatly hypertrophied, and the capsule non-ad-

herent. The cortex was somewhat thickened, and the markings distinct and regular; moderately congested. The right kidney was small, two and a half by three-quarters of an inch in size, and weighed 48 grammes—less than an ounce and three-quarters. The tissue was normal, but the kidney was apparently congenitally small. Intestines. Descending colon was filled with gas; ascending colon and small intestine pallid and contained semi-fluid material. Stomach contained undigested food, potatoes, etc. Mucous membrane pale and coated with a thin layer of slimy mucous. Bladder distended with urine. Walls and mucous membrane normal. Examination of brain and cord deemed unnecessary. The blood was fluid everywhere, and darker than normal.

*Joseph Wood.*—Autopsy held at 1:25 P. M. Same individuals were present as at the last autopsy.

Body presented same appearance as in preceding cases. There was the same contraction of the legs, and the same general appearance as in the others. Same condition of epithelium of cornea.

Medium incision made as in other cases. Diaphragm attached to fifth intercostal space on both sides. There were half a dozen scattered petechial points found under the pericardium, half a m.m. in diameter. On the anterior surface of both ventricles, and on the posterior surface of the left ventricle, were five scattered similar points. On the posterior surface of the right ventricle were three similar small points, and one larger, three and a half m.m. in diameter.

Heart normal in size, and condition of ventricles the same as in the case of Smiler. Both lungs were free from adhesions. The right lung, bronchi, pulmonary vessels, and lung tissue were normal, but somewhat more pigmented than usual. The substance of the lung was dry, and dark pink in color. Heart muscles pale and firm, and of normal thickness. All the valves were normal.

Spleen was normal in size, and dark red in color, and showed two thickened white patches on capsule. The pulp was firm. The pancreas was normal. The liver was normal in every respect. Both kidneys normal in every respect. Nothing abnormal was found in the intestines. The gall-bladder was distended with normal bile. The urinary bladder was of normal thickness, but the mucous membrane was considerably congested. The brain and cord were not examined.

*James J. Slocum.*—Autopsy held at 1:45 P. M. Same persons present as in preceding cases.

There were the same blisters and external appearances as in the others. There were also the same appearance of cornea. Medium incision was made as in the other cases.

Heart. Petechial spots scattered about as in the other cases, and were also observed under the pulmonary pleura. The left ventricle was firmly contracted, while the right was flabby, Both auricles, especially the right one, were filled with fluid blood. The left lung was free from adhesions. The upper lobe of right lung was slightly adherent. The left lung was in the same condition as the others, but slightly œdematous. The right lung was in the same condition. There was a well-marked

large group of petechial spots at the center of anterior surface of left ventricle.

The spleen was of normal size, with the pulp soft, of dark red color, and somewhat congested. Pancreas was normal, both on the surface and on section. The gall-bladder was half-full of bile, and the common duct patulous. The liver was normal in every respect. The left kidney was very much congested, but normal in all other respects. The right kidney was in a similar condition. A careful examination of the intestines showed nothing abnormal. The bladder was collapsed and normal. The trachea was normal.

All of which is respectfully submitted.

CARLOS F. MACDONALD, M. D.,
S. B. WARD, M. D.

NOTE.—Dr. Van Gieson reports that the practical results of the microscopical examinations are, that the passage of the electric current through the body is attended with no recognizable changes in its tissues or organs, excepting the local thermic changes in the skin at the points of application of the electrodes and some minute petechial spots on several of the organs.

## PERSONAL.

Dr. POPOFF, of Kharkow, Russia, has been appointed Extraordinary Professor of Forensic Medicine at Tomsk, Russia.

Dr. BROUARDEL, of Paris, has received the distinction of the Degree of LL. D. from the University of Cambridge, England.

Prof. DR. VON MASCHKA has retired from the Chair of State Medicine at Prague, Bohemia. DR. PALTAUF, of Vienna, has been appointed to succeed him.

Dr. FRED BATEMAN, of Norwich, England, has received the rare distinction of the Fellowship of the Academy of Medicine, of Paris, France.

Lord Advocate J. P. B. ROBERTSON, Q. C., M. P., LL. D., has been appointed Lord Justice General for Scotland, and Lord President of the Court of Sessions, to fill the place of the late Lord Justice General John Ingles. He was member of Parliament for Buteshire.

Dr. Biffi succeeds Dr. Verga, and will preside at the Congress to be held at Rome in 1892.

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Dr. Fuerstner, of Heidelburg, was made President of the Congress of German Alienists of the Southwest, at the session of November, 1890, at Carlesruhe.

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Dr. Peter Bryce.—The Executive Committee of the Medico-Legal Society tendered Dr. Bryce a complimentary dinner on the occasion of his recent visit to New York City, September 18, 1891.

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Chief Justice Way, of South Australia, has been spending a vacation in London, and receiving graceful acknowledgements for the hospitality he has extended at Adelaide to strangers visiting that colony.

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Prof. Senator Audrea presided over the Italian Medico Psychological Congress held recently at Milan, and in his Presidential address the progress of Psychologcal Science in Itlaly from 1873 to the present.

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Mr. Richard Heim Collins, Q. C., has been made successor to Sir James FitzJames Stephens upon the Bench of the English Queen's Bench Division, and the Queen has made Sir James FitzJames Stephens a Baronet. Judge Collins was one of the authors of "Smith's Leading Cases."

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Dr. Albert Day.—The officers of the Washington Home for Inebriates, at Boston, tender Dr. Day a public reception on his seventieth birthway, October 15, 1891, and the Association for the Study and Cure of Inebriety call a public meeting for the same evening to celebrate the birthday of its President, Dr. Day. He has won and well deserves all the honors thus extended to him.

Sir CHALES PEARSON, Q. C., M. P., late Solicitor-General, has been made Lord Advocate, to succeed Mr. Robertson, and Mr. Graham Murray, one of the ablest lawyers of the Bar of Scotland has been appointed Solicitor General.

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Dr. D. HACK TUKE contributed an interesting biographical sketch of the eminent alienists, Dr. PRICHARD and Dr. SYMONDS, at a recent meeting of the British Medico-Psychological Association, held at Bristol, England, where these men lived in their day. He also took occasion to review the doctrine of *moral insanity*, which Dr. PRICHARD originated. We hope to find space to notice Dr. Tuke's views upon this much-debated question. Our gifted associate, A. WOOD RENTON, has made Dr. Tuke's work on this topic the subject of a short paper, which appears in this number.

Apropos of A. WOOD RENTON, a barrister at law of No. 2 Essex Court Temple, E. C., London, the editor of this journal can recommend him to the legal profession, having occasion to need aid in taking testimony or other legal technical labor, as thoroughly competent and reliable, and conversant with the French, German, and Italian languages.

# TRANSACTIONS.

## MEDICO-LEGAL SOCIETY.

PRESIDENCY OF CLARK BELL, ESQ.

October meeting, Oct. 14, 1891. Held at the Buckingham Hotel. President Clark Bell in the Chair. In the absence of the Secretary, Dr. L. L. Mial, late assistant physician at Morris Plains Asylum, was named as Secretary pro tem. The reading of the minutes of last meeting were, on motion, laid over.

The following persons, proposed by CLARK BELL, ESQ., and endorsed by the Executive Committee, were duly elected:

ACTIVE MEMBERS.

Judge O. H. Horton, President Medico-Legal Society, Chicago, Ill.; E. D. Bouderant, M. D., Assistant Physician Alabama State Hospital, Tuscaloosa, Ala.; Francis B. Lee, Esq., Trenton, N. J.; Wilbur F. Lunt, Esq., Appraiser's Office, Portland, Me.; Judge A. DeMoldenhawer, President Tribunal Varsovie, Russia; W. Alfred McCorn, M. D., Prison Physician, Waupun, Wis.; Harold Browet, Esq., Solicitor, B. Yuen Ming, Yuing Road, Shanghai, China; Judge A. G. Clearwater, Kingston, N. Y.; Ira L. Bamberger, Esq., 280 Broadway, N. Y.

CORRESPONDING MEMBERS.

Dr. J. W. C. O'Neil, Gettysburgh, Pa.; Hon. John Manning, North Carolina Institution, Chapel Hill, N. C.; Mr. MacNamara, *London Sanitary Record.*

The following papers were read:

1. "A Scottish Will Case," by G. W. Wilton, B. L., Edinburgh, Scotland. Read by Professor Isaac Lewis Peet.

2. "A Case of Traumatic Insanity," by C. B. Burr, M. D., Pontiac, Mich. Read by Dr. Isadore Dyer, Assistant Physician, New York Skin and Cancer Hospital.

Mr. Clark Bell explained an error in the title of this paper as printed in the Journal. It is, by mistake, printed as "Friedreich's Ataxia in Legal Medicine," instead of its proper title, and that the edition was printed before the error was discovered.

3. "Arsenic on the Brain," by Herbert E. Smith, M. D., University of Yale. Read by Dr. Chambers-Ketchum, Rutgers Female College.

4. "The New Locus Classicus of Moral Insanity," by A Wood Renton, Esq., London. Read by Dr. L. L. Mial, late Assistant Physician New Jersey State Asylum, Morris Plains, N. J.

5. "Report of Delegate to London Congress of Hygiene," by Dr. Ferd. M. Valentine. Read by President Clark Bell, Esq.

On motion discussion of these papers was laid over to next meeting.

Mrs. Sophia McLellan laid before the Society a copy of a resolution adopted at the last meeting of the London Society for the Study of Inebriety, which was as follows:

"In all criminal trials in which the alleged criminal act has been committed by the accused when under the influence of liquor, or has been committed by an inebriate, there should be an investigation into the previous medical history of the prisoner. There should also be an inquiry into the family history, so as to elucidate the heredity, with special reference to inebriety, insanity, and other neurotic affections. This two-fold inquiry should be entrusted either to a medical expert or to a mixed committee, composed of a medical and a legal expert, acting conjointly.

The object of this investigation is to ascertain how far the accused has been cognizant of his alleged criminal offense, and as to whether, if so cognizant and so competent, he was able to resist the criminal impulse. Such an expert inquiry should be provided for the accused, whatever the circumstances, as a judicial provision to insure a fair and just trial.

2nd.—The appointment of a mixed commission of judges, counsel, and medical experts for the consideration of the question of dealing with ine-

briates who have been convicted of a criminal offense. This inquiry should have special reference to the best procedure to be pursued, whether, if penal, by cumulative punishment or otherwise, or if curable, by medical treatment for a diseased condition, with due provision for classification, occupation, hygienic measures, and elevating influence.

By some research of this kind such light might be thrown upon the genesis of crime, complicated with drinking, and the morbid conditions which precipitate not a few individuals into inebriate criminality, as might aid in the prevention of crime, as well as improve the criminal's chances of reformation, and increase the influence and dignity of the law, by avoiding even the semblance of injustice."

Mrs. McLellan said she had been making a study of the cases of criminals tried at the General Sessions, and found that a large per cent. of them were from parents who were epileptics, neurotics, and criminals, and she moved that this body approve of and endorse the action of the London Society in that regard.

Hon. Charles H. McMaster seconded the motion and made an interesting statement of his observation of this class in connection with his professional duties as a journalist connected with the criminal courts, and felt that the importance of the action was greater than stated by Mrs. McLellan.

It was unanimously adopted.

Mrs. McLellan gave notice that at the November meeting she would move the appointment of a similar mixed committee by this body for work of the same character.

The Chair announced the death of S. Hepburn, jr., of Carlisle, Pa., an old and respected member of this body. Mr. Hepburn was connected with the Paul Schoeppe case, and has always been one of our most active workers.

The Society then adjourned.

L. L. MIAL, M. D.,
*Secretary Pro. Tem.*

# THE SECOND SESSION OF THE INTERNATIONAL MEDICO-LEGAL CONGRESS.

*To the Members of the Medico-Legal Society, and of the International Congress of Medical Jurisprudence:*

It has been determined that the second session of the INTERNATIONAL MEDICO-LEGAL CONGRESS OF MEDICAL JURISPRUDENCE will be postponed to the year 1893. The time and place of the Congress will be announced later, of which due notice will be given to the members and the public press.

CLARK BELL,
*President.*

MORITZ ELLINGER,
*Secretary.*

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Copies of the bulletin of the International Medico-Legal Congress held in New York June, 1889, will be sent to each of the officers of that body, and to a few others who are believed to desire it.

In case it is received by anyone who has not subscribed for it, or who does not wish to keep and pay for it, will that person promptly return the same to the editor of this journal?

# MICHIGAN NEUROLOGICAL CLUB.

REPORTED BY DR. C. B. BURR.

EASTERN MICHIGAN ASYLUM, *Pontiac, Mich., May* 29, 1891.

A meeting of the Michigan Neurological Club was held in the Assembly Hall of the Eastern Michigan Asylum on the above date. Present—Dr. W. J. Herdman, of Ann Arbor; Dr. David Inglis, of Detroit; Dr. W. P. Manton, of Detroit; Drs. C. B. Burr, E. A. Christian, Jason Morse, D. B. Taylor, and H. C. Guillot, of the Medical Staff of the Eastern Michigan Asylum.

The programme for the evening comprised:

1. Exhibition of a case of supposed Friedreich's Ataxia, and three cases of Traumatic Insanity.

2. Discussion of Traumatic Insanity in general, and of the individual cases presented.

3. Paper by Dr. Inglis, on Friedreich's Ataxia. Discussion of Friedreich's Ataxia.

In view of the interesting medico-legal points arising in connection with one of the cases of Traumatic Insanity presented at the meeting, it was unanimously decided to send a history of the case to the MEDICO-LEGAL JOURNAL.

Dr. C. B. Burr was chosen to report the case, and his report appears in the current issue of the JOURNAL, at Page 123.

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NOTE BY THE EDITOR.—The report of the case of Traumatic Insanity, as made by Dr. Burr, was inserted, by mistake, as a case of Friedreich's Ataxia, without conference with Dr. Burr, who objected, and preferred that it appear in the transactions of the Michigan Neurological Society. The article, however, was printed and type distributed before the wish of Dr. Burr was known to the Editor. Dr. Burr desires to be understood as only the reporter of the Club, who sends a history of the case to the JOURNAL for publication. We greatly regret the error in the title of Dr. Burr's report.

# JOURNALS AND BOOKS.

THE NEW CORPORATION LAWS OF NEW YORK. By Frank White. James B. Lyon, Albany, N. Y. Second edition (1891).

The Legislature of New York, session 1889-1890, passed some new laws regarding corporations, based upon the report of the Commissioners upon Statutory Revision. These laws were carefully revised and amended by the Legistature of 1890, and some slight changes were made at the session of 1891. This work gives the new legislation at length, and a series of forms for practice under it. The *General Corporation Law* (Chap. 563, Laws of 1890), is given *in extenso*, and under each section are references to decisions and authorities. The *Stock Corporation Law* (Chap. 564, Laws of 1890), the *Railroad Law* (Chap. 565, Laws of 1890), the *Transportation Corporation Law* (Chap. 566, Laws of 1890), the *Business Corporation Law* (Chap. 567, Laws of 1890), are each published in full, and similarly annotated, and new forms for practice under each branch, by Mr. White, are given. The book also contains the Laws of 1891 as to Rapid Transit, and supplemental acts as to Corporations. Mr. White has been Examiner of Corporations in the office of the Secretary of State, and has facilities for such a work of great importance. It is well worth inspection by counsel practicing for or against corporations.

ANNALES MEDICO-PSYCHOLGIQUE. The July-August number contains a carefully prepared paper upon "The Medical Jurisprudence of Insanity in the United States of America," by Dr. Parant.

DR. PARANT is one of those rare Frenchmen who know the value of mastering other tongues than his own.

The egotism of the ancient Parisian scientist, in refusing to study any language than French, left all the wealth of science in English, German, Scandinavian, and the Latin tongues a sealed book to such. Dr. Parant's facility in English equals Prof. Benjamin Ball, Dr. Briant, Dr. Lutaud, Prof. Charcot, and many of the notable names among French scientists.

His paper is addressed to the judicial decisions in the American States, which have overruled the absurd doctrines of the McNaghten case, respecting the right and wrong test in insanity cases.

He quotes with approval the opinion of the Supreme Court of Alabama, written by Judge Somerville, overruling and assailing the absurdities of that doctrine, as expressed in Parsons *vs.* the State of Alabama. He quotes at length the decision in Washington, D. C., in the case of Daley, the masterly charge of Judge Montgomery, and the evidence of Drs. Godding and Chapin, wherein a contrary doctrine was successfully held.

He cites the case of William Manley in the State of New York, who was sent to the Buffalo Asylum instead of to the gallows. He deals upon the case of Reiner in Michigan, who, unquestionably insane, was convicted by

the jury, under the charge of the court, asserting the old right and wrong test, but was afterward found to be so clearly insane that he was never sentenced, and subsequently sent to the asylum for insane called criminals, at Pontiac, as a lasting reproach upon that absurd test, which could not be sustained in his case.

The case of Guiteau, the opinion of Dr Godding, the charge to the jury, and the verdict on that doctrine, are analyzed by the pen of a master.

The writer gives full credit to the Medico-Legal Society of New York for the part it has played in bringing about these changes in judicial views, speaks in high praise of its president, and gives enormous prominence to his labors in bringing about these wonderful results.

The whole paper is a masterly review of the present legal aspects of the questions involved, and the view taken in England, and in English speaking colonies and countries.

We hope at an early date to reproduce in our columns this remarkably able paper, from one of the most critical and careful observers of the progress of events in America among living Frenchmen.

We think Dr. Parant should have also given credit to the masterful logic of Chief Justice Doe, in the New Hampshire case of more than twenty years, who initiated this judicial departure in insanity cases. His logic has never been answered by the friends of the right and wrong test, and that decision has been the law in New Hampshire ever since.

Notes on Land Tenure in Old Japan. By John H. Wigmore, Esq.

The Asiatic Society has published an intensely interesting volume of 300 pages, edited by Mr. Wigmore from the posthumous papers of Dr. D. B. Simmons, who resided in Japan from 1859 to the date of his death, in February, 1889. Dr. Simmons was an American, who graduated in New York in 1855, studied in Paris and Berlin, and possessed the confidence of the Japanese people from officials to citizens.

The work is a resume of the whole land system of Japan. The country was districted and each district had an official who settled all disputes about land in his jurisdiction. The land was parceled out into small holdings, the average size of which to-day is 2½ to 3 acres to one household. We have not space for a review of the book, but it certainly gives a clearer insight into the customs and agricultural knowledge of Japan than any work we have recently seen.

# BOOKS, JOURNALS AND PAMPHLETS RECEIVED.

Medical Faculty University of Toronto.—Post-Graduate Course of Lectures delivered December, 1890.

The Johns Hopkins Hospital.—Superintendent's Report for year ending January 31, 1891.

Clark University, Worcester, Mass.—Third official announcement.

General Board of Commissioners in Lunacy for Scotland.—Thirty-third annual report.

N. Y. College for Vet. Surgeons.—Annual announcement for 1891-'92.

Univ. of Pennsylvania, School of Biology.—Announcement for 1891-'92.

Programme for Seventh International Congress of Hygiene and Demography, London, 1891.

Mississippi Medical College.—Announcement for 1891-'92.

Milwaukee Hospital for Insane.—Trustees Report for the two years ending September 30, 1890.

St. Louis Public Library.—Annual report 1889-'90.

Connecticut Hospital for the Insane.—Report for 1890.

University Medical College, Kansas City, Mo.—Eleventh annual announcement.

Long Island College Hospital.—Announcement for 1891-'92.

D. Hack Tuke, M. D., LL. D.—Examiner in Mental Physiology in the University of London, England. Prichard and Symonds in Especial Relation to Mental Science, with chapters on Moral Insanity. (1891.)

Blakiston, Son & Co., Philadelphia, Pa.—Self-examination for Medical Students. (1891.)

G. A. Tucker, M. D., London.—Sketch of Sir Patrick Colquhoun. (Extracted from the *Eagle*, June, 1891.)

Frank P. Norbury, M. D., Jacksonville, Ill.—Epilepsy. (Reprint from Transactions of Ill. Med. So., 1891.) Cerebral Surgery. (Reprint from the *Medical News*, 1891.)

J. T. Eskridge, M. D., Denver, Col.—Chorea in Relation to Climate, especially the Climate of Colorado. (Reprint from the *Climatologist*, 1891.) Hypnotism. (Reprint from the New York *Medical Journal*, 1891.)

H. M. Whelpley, M. D., St. Louis.—Trichina Spiralis.

The Glasgow *Medical Journal*.—Sketch of Fordyce Barker, M. D., LL. D. (Reprint, 1891.)

ROBERT FLETCHER, M. D., Washington.—The New School of Neurology. (1891.)

HON. WILLIAM HATCH, of Missouri.—Speech in the House of Representatives, February 25, 1891.

NORMAN KERR, M. D., F. L. S., President of the Society for the Study of Inebriety, London, Eng.—Inebriety and Criminal Responsibility. (1891.)

ARCHIBALD CHURCH, M. D., Professor of Neurology, Chicago Polyclinic, Ill.—The Nervous Features and Sequences of La Grippe. (1891.)

GEORGE F. HALBERT, M. D., St. Louis, Mo.—The Motive and Method of Electricity in Pelvic Inflammation. (1891.)

WILLIAM C. KRAUSS, M. D., Buffalo, N. Y.—The People *vs.* Sadie McMullen, a Medico-Legal Case. (Reprint from *Journal of Nervous and Mental Diseases.* 1891.)

WILLIAM W. IRELAND, M. D., Edinburgh, Scotland.—On the Arithmetical Faculty and its Impairment in Imbecility and Insanity. (Reprint from *The Journal of Mental Science*, July, 1891.)

H. AUGUSTUS WILSON, M. D., Professor Philadelphia Polyclinic.—Illustrative Cases of Congenital Clubfoot. (Reprint from *Annals of Gynacology and Paediatry*, June, 1891.)

GIUSEPPE ZUNO, Professor of Medicine, Milano, Italy.—Medico-Legal Studies. (1891.)

D. APOSTLI, M. D., Paris.—Vol. II., No. 12, of *Revue International d' Electrotherapie.*

F. A. DAVIS, Medical Publisher, Philadelphia, Pa.—Annual of the Universal Medical Sciences, 5 Volumes, by Charles E. Sajous, M. D., and 70 Associate Editors. (1891.)

Chief Justice A. H. HORTON.—Limitations upon Appellate Courts. Report of 8th Annual Meeting Kansas Bar Association. (1891.)

SMITHSONIAN INSTITUTE.—Report upon International Exchanges. (1888.)

AMERICAN INSTITUTE.—Electrical Engineers; Transactions. (September 1888.)

HON. BRADFORD L. PRINCE.—Message to the Legislature of New Mexico, December 30, 1890; and special message, January 10, 1891. (In the Spanish language.)

# MAGAZINES.

Archives de Neurologie, Paris. This review is the leading French journal in its domain. It is published under the direction of Prof. Charcot, aided by a brilliant list of collaborateurs. It devotes great space to Neurological questions, publishes the transactions of the Medico-Psychological Society of France, and proceedings of French and German societies of alienists.

The September number contains a Review of Legal Medicine of considerable value, largely from the pen of P. Keraval, and others of the staff who sign only initials.

The Journalist, New York city, Allen Foreman, Editor, commences its 14th Vol. with the number of Sept. 19, 1891.

It is conducted with great energy and ability, and although seen mainly by journalists and editors only, deserves a much wider clientelle of readers. In a personal commencing the volume, its editor says that he has succeeded in making a large number of sincere friends, and some active enemies, but concludes by saying: "It is in no spirit of boastfulness that I say I am fully as proud of my enemies as of my friends." Mr. Foreman's experience is not unlike his confreres in journalism, but he has fewer imitators who can unite with him in saying of his journal: "And while it has found itself mistaken, it has never hesitated to acknowledge its error." There are too few journalists who can truthfully endorse his statement, or who will emulate his example.

Appropos of this, we record a recent notable example of where the New York *Sun*, having published a statement reflecting upon individuals not in public life, published next day its regret for the action, and made the *amende honorable*.

The British Medical Journal on Sept. 5th published an educational number, which gives the course of study, charts, etc., of all the great English and Colonial Universities and Schools of Medicine of Great Britain and her colonies.

We find, by examination, that the great Universities and schools of London, such as the Royal College of Physiology, the Universities of Oxford, of Cambridge, of Durham, all the great schools of Scotland and of Ireland, have a chair of Forensic Medicine, and require graduates to pass examinations and attend lectures in this branch; and that the same is true of the major part of the lesser colleges and hospital schools of the Kingdom, and in the colleges and universities of the Colonies.

We should be glad to see this more universally adopted in American Colleges and Law and Medical Schools, and we are glad to see that Cornell University, at Ithaca, has added Medical Jurisprudence to its course. It hould be universal in all schools where Law or Medicine is taught.

THE ALBANY LAW JOURNAL. The Editor, Mr. Irving Browne, has just returned from the grand tour abroad with his family. He has spiced the columns of this journal with reminiscences and incidents of travel during and since his trip. The journal is a weekly deservedly prized by the profession, and one that is welcome on any lawyer's table.

SCIENCE. This weekly journal, devoted to all science, edited by N. D. C. Hodges, and published in New York city, grapples with the problems, in the October number, connected with "The Evolution of the Cerebellum," which it makes its leading article, over the signature of C. L. Herrick, who reviews an article from the March number of the *Journal of Comparative Neurology*. Mr. Herrick shows how little is known upon the subject, and how extraordinarily fertile the field of inquiry in this domain of science has become.

The same number of this journal contains an able and instructive continuation of an article on "Anthropology, Past and Present," that we feel sure would interest our readers, from the address of Prof. F. Max Muller before the section on Anthropology of the British Association for the Advancement of Science.

SCRIBNER'S MAGAZINE. W. W. Story continues his article on "The Great Streets of the World."

Archibald Rogers talks, and A. B. Frost illustrates, "Hunting American Big Game."

THE COSMOPOLITAN. Whichever side one may take of the merits and talents of Elsie de Wolfe as an actress in "Thermidor," and we think there are two sides to that question to-day, there would be but one view, as to her sketch of the three leading women of the Comedie Francaise, in the October number. She has a facile, graceful pen, a seductive, charming style, and needs only to really enter the lists of literature to win.

We hear that she was induced to depart from the teachings of the French school, and of Sardou himself, in her presentation of the principal role in "Thermidor," by those who deemed themselves competent to advise her, and who claimed the right to control her actions. This may have had some relation to the torrent of hostile criticism showered upon her acting. It is, fortunately, not the critics, after all, who make the success of a play or of an actor. It is the verdict of the public—the popular recognition. We think Miss de Wolf has the talent, the mettle, and the tenacity to win, and we believe she will succeed despite the very general assaults made upon her recent appearance.

# SAMUEL SULLIVAN COX

Was born in Zanesville, Ohio, September 30, 1824. He graduated at Brown University, Providence, R. I., in 1846. He studied law in Zanesville, was admitted to the Bar in Cincinnati, and, returning to Zanesville, entered into co-partnership with Judge Searles.

In 1853, after a foreign tour, he assumed editorial charge of the *Ohio Statesman*, in connection with his law practice.

He was elected to Congress in 1857, and re-elected, served continually until 1865, when he removed to New York City. In 1868 he was re-elected to Congress from that city, and served continuously as a member for that city for eight terms. He was Speaker of the House in the 44th Congress, and continued in office till 1885, when he was appointed Minister to Turkey. He held this position eighteen months, and, returning, was immediately re-elected to the 49th Congress, where he continued to serve until his death, September 10, 1889, at his residence in the City of New York.

Mr. Cox was a leader in his party, a pleasing and eloquent speaker, a writer of fine abilities, and was possessed of the finest and keenest sense of humor of any of his compeers in public life.

He was for many years connected with the Medico-Legal Society, and took a great interest in all questions of a public character.

He was a warm friend, an honorable foe, beloved by all with whom he was thrown in contact, and his life and career was one of high purpose, honorable endeavor, and abundant success.

# THE SUPREME COURT OF KANSAS.

BY HON. ALBERT W. HORTON, CHIEF JUSTICE.

An historical sketch of the Supreme Court of Kansas is naturally divided into two periods: The Territorial and the State.

## 1. That of the Territory of Kansas.

President Pierce, as early as June, 1854, made judicial appointments for the Territory of Kansas. During the Territorial period, Samuel D. Lecompte, of Maryland, and John Pettit, of Indiana, held the position of Chief Justice of the Territorial Courts; Saunders W. Johnston, of Ohio; Rush Elmore, of Alabama; Jeremiah M. Burrill, of Pennsylvania; Sterling G. Cato, of Alabama; Thomas Cunningham, of Pennsylvania, and Joseph Williams, of Iowa, were Associate Justices. When Kansas became a State, the court consisted of Judges Pettit, Elmore, and Williams. Israel B. Donalson, of Illinois, was the first United States Marshal, Andrew Jackson Isacks, of Louisiana, was the first United States District-Attorney, and James Findlay, of Pennsylvania, was appointed Clerk. February 26, 1855, Gov. Reeder divided the Territory into three Judicial Districts. The first was assigned to Chief Justice Lecompte, the courts to be held at Leavenworth; the second to Judge Elmore, with courts at Tecumseh; the third to Judge Johnston, with courts at Pawnee. August 31, 1855, Charles H. Grover, H. A. Hutchinson, and John T. Brady were commissioned as District-Attorneys, respectively, for the First, Second, and Third Districts. In 1858, Alson C. Davis became United States District-Attorney, E. S. Dennis, Isaac Winston, Philip T.

HON. WILLIAM A. JOHNSTON,

ASSOCIATE JUSTICE SUPREME COURT, KANSAS.

Colby, and William P. Fain were United States Marshals Andrew J. Rodigue, E. Noel Eccleston, James R. Whitehead, and Laomi McArthur were among the last of the Clerks of the Territorial Courts.

Marcus J. Parrott, Thomas B. Sykes, and John Martin held the position of Reporters of the Court. The first attorneys admitted to practice in the Territorial Court were Edmund Byerly, James Christian, Marcus J. Parrott, and Richard R. Rees.

P. Sidney Post, of Wyandotte, and Richard Henry Weightman, of Atchinson, were appointed United States Commissioners under the provisions of the Fugitive Slave Act of 1850.

TERRITORIAL JUDICIAL DISTRICTS.

By an act of the Territorial Legislature, approved February 27, 1860, there were three judicial districts defined, with the times and places for holding therein the several courts. The division of the territory into districts and the Judges for the courts are presented in the following:

*First District.*—The counties of Doniphan, Atchison, Jefferson, Leavenworth, Wyandotte, and Arapahoe constituted this district, to which Chief Justice John Pettit was assigned. Section 10 of said act reads as follows:

"The whole of the Delaware Indian reservation is hereby attached to the First Judicial District for judicial purposes, as well as all the Indian Territory lying and being within the boundary of Arapahoe County."

The county of Arapahoe was attached to the county of Leavenworth for judicial purposes, except that in the county of Arapahoe the process of subpoena issuing from Leavenworth county shall have no force or effect if served in said Arapahoe county. (This county embraced the Pike's Peak region, which became the prominent portion of Colorado, with Denver as an objective point.)

*Second District.*—Excepting nine counties in the eastern tiers, the remaining portion of the Territory was in the

Second District, to which Rush Elmore, Associate Justice of the Supreme Court, was assigned.

Provisions were made for holding courts at Burlington, Emporia, Council Grove, Junction City, Marysville, Hiawatha, Holton, Topeka, and Lawrence. The counties of Osage, Woodson, Wilson, Greenwood, Godfrey (now Elk and Chautauqua), Butler, Hunter, (now Cowley), Chase, Marion, Saline, Dickinson, Clay, Washington, Riley, Wabaunsee, Pottawatomie, and Nemaha were attached to their adjoining most contiguous counties for judicial purposes. The Pottawatomie, Kaw, Otoe, Chippewa, and Ottawa, and Sac and Fox and Kickapoo Indian reservations were attached to this judicial district.

*Third District.*—The counties of Johnson, Lykins (now Miami), Linn, Bourbon, Cherokee, Dorn (now Neosho), Allen, Anderson, and Franklin constituted the Third District, and Associate Justice Joseph Williams was assigned to it.

For judicial purposes Cherokee county was attached to Bourbon; Dorn to Allen, and the New York Indian reservation was attached to this district for judicial purposes.

In Section 9 of this act, it was provided "where a county is attached to another for judical purposes, the jurisdiction of the county to which it is attached shall be the same as if it formed a part thereof, unless the county attached has an organization and officers of its own." The Chief Justices of the Territorial Supreme Court, of Kansas were as follows:

Hon. Samuel Dexter Lecompte, June 11, 1854; June, 1859.

Hon. John Pettit, June, 1859; January 29, 1861.

On this latter date President Buchanan signed the bill by which Kansas became a State, and the officers chosen at the election held under the Wyandotte Constitution, December 6, 1859, became the officers of the State.

McCatrons' Terrritorial Cases, published by Callahan &

Cockroft, of Chicago, in 1870, contains a report of the cases decided in the Territorial (United States District) Courts.

This volume also includes a few important cases from the United States Circuit Court from 1863 to 1868.

The preface of this work contains an admirable judicial history of the Territory of Kansas.

2. The Supreme Court under the State Regime.

At the election of the State officers held September 6, 1859, under the Wyandotte Constitution, the Supreme Judges chosen were as follows: Thomas Ewing, Jr., Chief Justice, term six years; Samuel A. Kingman, Associate Justice, four years; Lawrence D. Bailey, Associate Justice, two years. Judge Ewing resigned his position as Chief Justice September 13, 1862, having command of the Kansas Eleventh U. S. Volunteers, and Gov. Robinson appointed Nelson Cobb to fill the vacancy. Robert Crozier was elected November 3, 1863, the term expiring January, 1867. Samuel A. Kingman was elected as his successor. He was re-elected November 5, 1872, and resigned his position in December, 1876, to take effect on the 31st. Gov. Osborn appointed Albert H. Horton; he was elected in November, 1877, for the unexpired term, and for a full term of six years, in November, 1878. He was re-elected in November, 1884, and again re-elected in 1890. The Supreme Court has been made up as follows:

*Chief Justices.*—January 29, 1861, to September 13, 1862, Thomas Ewing, Jr.; 1863, Nelson Cobb; 1864–'66, Robert Crozier; November 3, 1863, to January, 1867, Samuel A. Kingman; January, 1867, to 1877, Albert H. Horton.

*Associate Justices.*—1861-'64, Samuel A. Kingman; 1865-'70, Jacob Safford; 1871–'84, David J. Brewer; 1861–'68, Lawrence D. Bailey; 1869–'92, Daniel M. Valentine. David J. Brewer was appointed United States Circuit Judge for

the Eighth United States Circuit in April, 1884. He was subsequently promoted by President Harrison to be a Justice of the United States Supreme Court. He was succeeded on the State Supreme Bench by Hon. T. A. Hurd, of Leavenworth. Mr. Justice Hurd was succeeded by Hon. William A. Johnston, of Minneapolis, who is now one of the Judges of the Supreme Court.

The Court is also assisted by the following Commissioners: Hon. B. F. Simpson, of Topeka; Hon. George S. Green, of Manhattan; Hon. J. C. Strang, of Larned.

The Clerks of the Court have been Andrew Stark, E. B. Fowler, A. Hammatt, and Canning J. Brown, the latter is now Clerk. Its Reporters have been Preston B. Plumb, Louis Carpenter, Elliott V. Banks, William C. Webb, and A. M. F. Randolph. Mr. Randolph is the present Clerk.

The State Reports are as follows: Vols. 1 to 5, reported by Elliott and Banks, Esq., 1862 to 1870; vols. 6 to 20, reported by W. C. Webb, Esq., 1870 to 1878, and vols. 21 to 44, reported by A. M. Randolph, Esq., 1878 to 1890.

Article 3 of the Constitution of Kansas provides that:

Sec. 1. The judicial power of this State shall be vested in a supreme court, district courts, probate courts, justices of the peace, and other courts inferior to the supreme court, as may be provided by law; and all courts of record shall have a seal, to be used in the authentication of all process.

Sec. 2. The Supreme Court shall consist of one Chief Justice and two Associate Justices, (a majority of whom shall constitute a quorum,) who shall be elected by the electors of the State at large, and whose term of office, after the first, shall be six years. At the first election a Chief Justice shall be chosen for six years, one Associate Justice for four years, and one for two years.

Sec. 3. The Supreme Court shall have original jurisdiction in proceedings in quo warranto, mandamus, and habeas corpus; and such appellate jurisdiction as may be provided by law. It shall hold one term each year at the seat of government, and such other terms at such places as may be provided by law, and its jurisdiction shall be co-extensive with the State.

Sec. 4. There shall be appointed by the Justices of the Supreme Court, a reporter and clerk of said court, who shall hold their offices two years, and whose duties shall be prescribed by law.

Under the constitution, the members of the Supreme Court have original jurisdiction in proceedings in quo warranto, mandamus, and habeas corpus only. The Court has two regular terms each year, commencing on the first Tuesday of January, and the first Tuesday of July of each and every year; but sessions of the regular terms of the court are held every month except August, each session beginning on the first Tuesday of the month.

The term of office of each Justice of the Supreme Court of Kansas is six years, and the salary of each Justice is $3,000 a year.

The Civil Code of Kansas provides—

Sections 542 and 542 *a*. Also section 543, being paragraphs 4641, 4642, and 4643 of the General Statutes of Kansas for 1889, Vol. 2, pages 1490–1497.

4641. Supreme Court reversing or modifying judgments and orders. Sec. 542. The Supreme Court may reverse, vacate, or modify a judgment of the district court, for errors appearing on the record; and in the reversal of such judgment or order, may reverse, vacate, or modify any intermediate order involving the merits of the action, or any portion thereof. The Supreme Court may also reverse, vacate, or modify any of the following orders of the district court, or a judge thereof: First. A final order. Second. An order that grants or refuses a continuance; discharges, vacates, or modifies a provisional remedy; or that grants, refuses, vacates, or modifies an injunction; that grants or refuses a new trial; or that confirms, or refuses to confirm, the report of a referee; or that sustains or overrules a demurrer. Third. An order that involves the merits of an action, or some part thereof. (G. S. 1868, Ch. 80, Sec. 542, Oct. 31.)

4642. Jurisdiction of Supreme Court. Sec. 542 *a*. No appeal or proceeding in error shall be had or taken to the Supreme Court in any civil action unless the amount or value in controversey, exclusive of costs, shall exceed one hundred dollars ($100), except in cases involving the tax or revenue laws, or the title to real estate, or an action for damages in which slander, libel, malicious prosecution, or false imprisonment is declared upon, or the constitution of this State, or the constitution, laws or treaties of the United States, and when the judge of the district or superior court trying the case involving less than one hundred dollars ($100) shall certify to the Supreme Court that the case is one belonging to the excepted classes. (Laws 1889, Ch. 245, Sec. 1, March 20.)

4643. Final order defined. Sec. 543. An order affecting a substantial right in an action, when such order, in effect, determines the action and prevents a judgment, and an order affecting a substantial right, made in a special proceeding, or upon a summary application in an action after judgment, is a final order, which may be vacated, modified, or reversed, as provided in this article. (G. S. 1868, Ch. 80, Sec. 543, Oct. 31.)

The criminal jurisdiction is also defined by the General Statutes providing a Criminal Procedure for Kansas.

Sections 281, 282, 283, and 284, being Paragraphs 5,343, 5,344, 5,345, and 5,346 of the General Statutes of Kansas for 1889, Vol. 2, Pages 1,751–1,754.

(5,343.) Appeal. Sec. 281. An appeal to the Supreme Court may be taken by the defendant, as a matter of right, from any judgment against him, and, upon the appeal, any decision of the Court, or intermediate order, made in the progress of the case, may be reviewed. (G. S., 1868, Ch. 82, Sec. 281, Oct. 31.)

(5,344.) How taken. Sec. 282. An appeal from a judgment in a criminal action may be taken in the manner and in the cases prescribed in this article. (G. S., 1868, Ch. 82, Sec. 282, Oct. 31.)

(5,345.) By the State. Sec. 283. Appeals to the Supreme Court may be taken by the State in the following cases, and no other: First—Upon a judgment for the defendant, on quashing or setting aside an indictment or information. Second—Upon an order of the Court arresting the judgment. Third—Upon a question reversed by the State. (G. S., Ch. 82, Sec. 283, Oct. 31.)

(5,346.) When taken. Sec. 284. The appeal must be taken within two years after the judgment is rendered, and the transcript must be filed within thirty days after the appeal is taken. (G. S., 1868, Ch. 82, Sec. 284, Oct. 31.)

SUPREME COURT COMMISSIONERS.

The present act, under which the Supreme Court Commissioners were appointed, is as follows:

"The Governor of the State of Kansas, by and with the consent of the Senate, upon and after the taking effect of this act, shall appoint three persons, citizens of the State, of high character for legal learning and personal worth, as commissioners of the Supreme Court. It shall be the duty of said Commissioners, under such rules and regulations as said Court may adopt, to aid and assist the Court in the performance of its duties in the disposition of the numerous cases pending in said Court. The said Commissioners shall hold office for the term of three (3) years from and after the first day of March, 1890, during which time they shall not engage in the practice of law. They shall each receive a salary equal to the salary of a judge of said Court, payable at the same time and in the same manner. Before entering upon the discharge of their duties they shall each take an oath to support the Constitution of the United States and the Constitutton of the State of Kansas, and to faithfully discharge the duties of the office of Commissioner of the Supreme Court to the best of their ability. All vacancies in said commission shall be filled in like manner as the original appointment."

This act was passed March 1, 1889. Under it, Hon. Benjamin Simpson, Hon. George S. Green, and Hon. J. C. Strang were appointed by the Governor, and confirmed by

the Senate, as Commissioners of our Court. The statute quoted prescribes their duties.

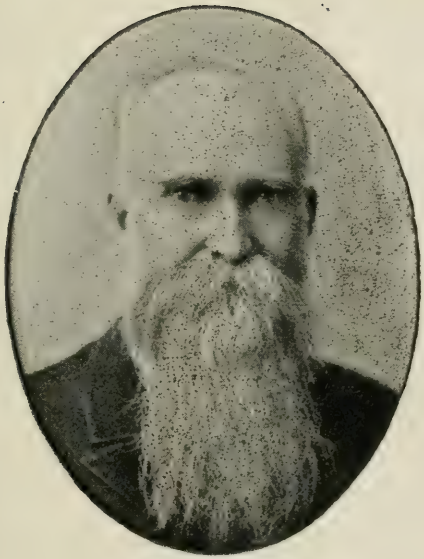
At each sitting of the Supreme Court for the hearing of arguments, a certain number of cases are assigned to the Commission, to be orally argued before them. Of course, this assignment is made by the Court proper. After the arguments are heard by the Commission, a consultation is had by the members of the Commission with the members of the Court, and after the records and briefs are read and examined in the cases assigned to the Commission, the Commission are directed by the members of the Court to prepare an opinion expressing the views of the Court. The opinion is prepared by the Commission, submitted to the Court, and then filed with the Clerk of the Court as the opinion of the Court, although written by a member of the Commission. The Court, with the assistance of the Commission, disposes of 600 or 700 cases each year, opinions being written in about 500 cases each year.

The first Chief Justice, Hon. Thomas Ewing, now resides at Yonkers, New York, having a law office at 155 and 157 Broadway, New York City, where he does a large and lucrative law practice. Hon. Nelson Cobb, upon retiring from the bench, took up his residence in Kansas City, Missouri, where he practiced his profession for many years. He is now very aged, and in feeble health. Hon. Robert Crozier, after he retired from the Supreme bench, was appointed by Gov. Thomas Osborn as United States Senator. He is now the district judge of Leavenworth county, in this State. Hon. Samuel A. Kingman resides in Topeka, the capital city, but, owing to ill health, is now engaged in no active business. He has a competency, and is enjoying a ripe old age. Judge Safford is the only one of the State judges who has died. Hon. Albert H. Horton has his official residence, also, in Topeka, having removed from his old home, at Atchison, about five years ago.

# HON. DANIEL M. VALENTINE.

ASSOCIATE JUSTICE SUPREME COURT OF KANSAS.

Daniel Mulford Valentine was born in Shelby county, Ohio, June 18, 1830. He is the son of John W. Valentine, who was born near New Providence, New Jersey, on October 24, 1804, and is the great great grandson of Richard Valentine, who settled in New Jersey in 1703, and the great great great great grandson of, and the seventh generation from, Richard Valentine, who removed from England and settled at Hemstead, Long Island, in 1644. Daniel Mulford Valentine removed with his father from Ohio to Tippecanoe county, Indiana, in 1836, and removed to Iowa in 1854, and to Kansas, July 5, 1859. He lived in Leavenworth one year, in Franklin county,and principally at Ottawa fifteen years, and at Topeka since the spring of 1875. He received an academic education, commenced his legal studies with his father and continued them with others till admitted to the bar in Iowa, in March, 1858. He was married to Martha Root on June 26, 1855. He served as county surveyor of Adair county, Iowa, in 1855, 1856, 1857; and as county attorney of the same county in 1858 and 1859, and was, a portion of the time, *ex-efficio* County Judge, when in 1859 he removed to Kansas. He was elected a representative to the legislature from Franklin county in 1861 and served during the session of 1862. In 1862 he was elected a State Senator from Franklin County, and served in the Senate during the sessions of 1863 and 1864. In 1864 he was elected Judge of the Fourth Judicial District and served as such for four years. In 1868 he was elected



HON. DANIEL M. VALENTINE,

ASSOCIATE JUSTICE SUPREME COURT, KANSAS.

Judge of the Supreme Court, taking his office in January, 1869, and has continued to serve as Judge of such court ever since, having been re-elected in 1874, in 1880, and in 1886. He has delivered about 1,500 supreme court opinions, among them are the following:

One of the most important questions ever brought for decision to the Supreme Court of Kansas was the one whether the legislature has the power to authorize municipal corporations to aid railroad companies in the construction of their railroads. That question was presented in the case of Leavenworth county *v.* Miller, 7 Kas., 479, and decided in the affirmative, Judge Valentine delivering the opinion of the Court. Mr. Justice Brewer (now of the Supreme Court of the United States) has said of this opinion, that it is one of the ablest ever delivered on that side of the question, a view in which Judge Cooley is understood to concur. Another important question upon which the courts of the various States have differed is whether the defence of insanity in a criminal action must be established by the defendant by a preponderance of the evidence, or whether the prosecution must show beyond a reasonable doubt that the defendant was of sufficiently sound mind to commit the offense charged. This question was presented to the Supreme Court of Kansas, in the case of the State *v.* Crawford, 11 Kas., 32, where it was held that it devolved upon the State to prove soundness of mind, the opinion being delivered by Judge Valentine; and with respect to insanity generally as constituting a defense in a criminal action, see the case of the State *v.* Nixson, 32 Kas., 205, the opinion being delivered by Judge Valentine. With respect to the rights of married women the decisions of the Supreme Court of Kansas have been very liberal, Judge Valentine delivering the opinions in the leading cases: Going *v.* Orns, 8 Kas., 85; Deering *v.* Boyle, 8 Kas., 525; Knaggs *v.* Mastin, 9 Kas., 532. It has also been decided by the Supreme

Court of Kansas, Judge Valentine delivering the opinion, that the legislature has the power to confer upon women the right to vote at school elections. Wheeler *v.* Brady, 15 Kas., 26. And in all cases of elections, the Supreme Court of Kansas has rigidly held that the elections must be pure, and that the majority of the legal and honest voters must govern. Among the cases upon this subject, in which Judge Valentine has delivered the opinions of the court, see the cases of the State *ex. rel.* Wells *v.* Marston, 6 Kas., 524; Morris *v.* Vanlandingham, 11 Kas., 269. As to the value of the legislative journals and the enrolled bills as evidence of the validity and force of the statutes purporting to have been passed by the legislature, see the following cases, the opinions having been delivered by Judge Valentine: Division of Howard county, 15 Kas., 194; the State *ex. rel. v.* Francis, 26 Kas., 724.

# HON. WILLIAM A. JOHNSTON.

ASSOCIATE JUSTICE SUPREME COURT OF KANSAS.

BY C. J. BROWN, ESQ., CLERK OF THAT COURT.

William A. Johnston was born in Kemptville, Ontario, July 24, 1848. He received a common school and academic education in and near his Canadian home, and in 1865, at the age of 17, an ambitious and self-reliant youth, started out to make for himself a home and a name in the Western States.

His quest for a location was not satisfied till he reached the pushing, struggling life of the frontier. Stopping first at Rockford, Illinois, where he remained for years, in 1869 he moved on to St. Clair county, Missouri, and in 1872 he stuck his stake in Minneapolis, Kansas—then a very new and scattering frontier settlement, in that then very new and far Western State. This location he adopted as his permanent home, and forthwith joined the army of energetic, courageous workers that has already made Kansas a great State, and has transformed the new settlement in which he located into a prosperous, growing inland town of three thousand people.

In 1873 Justice Johnston was admitted to the bar, and at once entered upon the practice of his profession, continuing in the active practice, with marked success, till he was appointed to the Supreme Bench. In 1875 he was elected a member of the lower house of the Kansas legislature, and in 1876, State Senator for the term of four years. In 1879 he was appointed Assistant United States Attorney for the dis-

trict of Kansas, and served till he was elected Attorney-General of the State in 1880. In 1882 he was elected Attorney-General for a second term of two years. In 1884 he was elected Associate Justice of the Supreme Court of Kansas, to fill the vacancy caused by the resignation of Justice Brewer, (now Associate Justice of the Supreme Court of the United States,) who in that year left the Supreme Bench of Kansas to accept the United States Circuit Judgeship. In 1888, at the end of this unexpired term of four years, Justice Johnston was re-elected Associate Justice for the full term of six years.

The complete line of succession in the Judicial Chair on the left of the Chief Justice, from the birth of the State to the election of Justice Johnston, is Justice Samuel A. Kingman, (afterward Chief Justice,) Justice Jacob Safford, Justice David J. Brewer, and Justice T. A. Hurd, all able jurists, who contributed much to the very high reputation the Kansas Supreme Court has always enjoyed. Justice Johnston succeeded to this chair at the age of forty, and has fully maintained the high standard left there by his distinguished predecessors. Being still a young man, and already filling one of the highest judicial positions in his State in a very able and satisfactory manner, his future is full of promise for himself and for the State he serves. He has all the elements of growth. In addition to his legal learning, he possesses, in an eminent degree, those other necessary qualities of a judge — firmness, mental honesty, courage, and level-headedness.

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R. L. PARSONS, M.D.
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The Officers elected by the Congress held June 4th to 7th, 1889, in New York, were as follows:

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CLARK BELL, ESQ., of New York.

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Chief-Justice Edward F. Bermudez, of La.
Gov. Biggs, of Delaware.
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Ex-Chief-Justice Noah Davis, of N. Y.
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Prof. John J. Elwell, of Ohio.
Judge W. H. Francis, of North Dakota,
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Dr. Eugene Grissom, of N. C.
Dr. Carl H. Horsch, of N. H.
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Dr. Charles H. Hughes, of Mo.
Dr. W. W. Ireland, of Scotland.
Prof. Robt. C. Kedzie, of Mich.
Dr. Norman Kerr, of England.
Dr. Jennie McCowen, of Iowa.
Dr. Jules Morel, of Belgium.
Dr. Connolly Norman, of Ireland.
Prof. John J. Reese, of Pa.
Dr. Bettincourt Rodrigues, of Portugal.
Judge H. M. Somerville, of Ala.
David Steward, Esq., of Maryland.
Theo. H. Tyndale, Esq., of Mass.

The following Vice-Presidents have since been named by the President:

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Prof. Dr. Benedikt, for Austria.
Hon. C. H. Blackburn, for Ohio.
Prof. Brouardel, for France.
Sig. J. M. P. Cammao, for Equador.
Judge Elisha Carpenter, for Conn.
Prof. Millen Coughtrey, for N. Zealand.
Dr. J. S. Dorsett, for Texas.
Judge L. A. Emery, for Maine.
Dr. I. T. Eskridge, for Colorado.
Dr. Enrico Ferri, for Italy.
Dr. Simon Fitch, for Nova Scotia.
Judge C. G. Garrison for New Jersey.
Dr. Vincent de la Guardia, for Cuba.
Prof. Axel Key, for Sweden.
Doctor Herman Kornfeld, for Silesia.
Prof. Dr. Paul Kowalewski, for Russia.
Prof. Dr. J. Maschka, for Bohemia.
Dr. Y. R. Le Monnier, for Louisiana.
Sen. Don Rafael Montefar, for Guatemala
Judge A. L. Palmer, for New Brunswick
Doctor Vau Persyn, for Holland.
Hon. Jas. H. Peters, for Pr. Ed. Isld.
T. Crisp Poole, for Queensland, Australia
Dr. Thos. O. Powell, for Georgia.
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Senator Andrea Verga, for Italy.
Prof. Dr. D. Vleminicks, for Belgium.
Prof. Dr. Wille, for Switzerland.
Dr. C. E. Wright, for Indiana.
Mr. Le Grand Young, for Utah.
Sig. F. C. C. Zegarra, for Peru.

### SECRETARY.

MORITZ ELLINGER, ESQ., of New York.

### ASSISTANT SECRETARIES.

FRANK H. INGRAM, M. D., of N. Y. W. J. LEWIS, M. D., of Conn.

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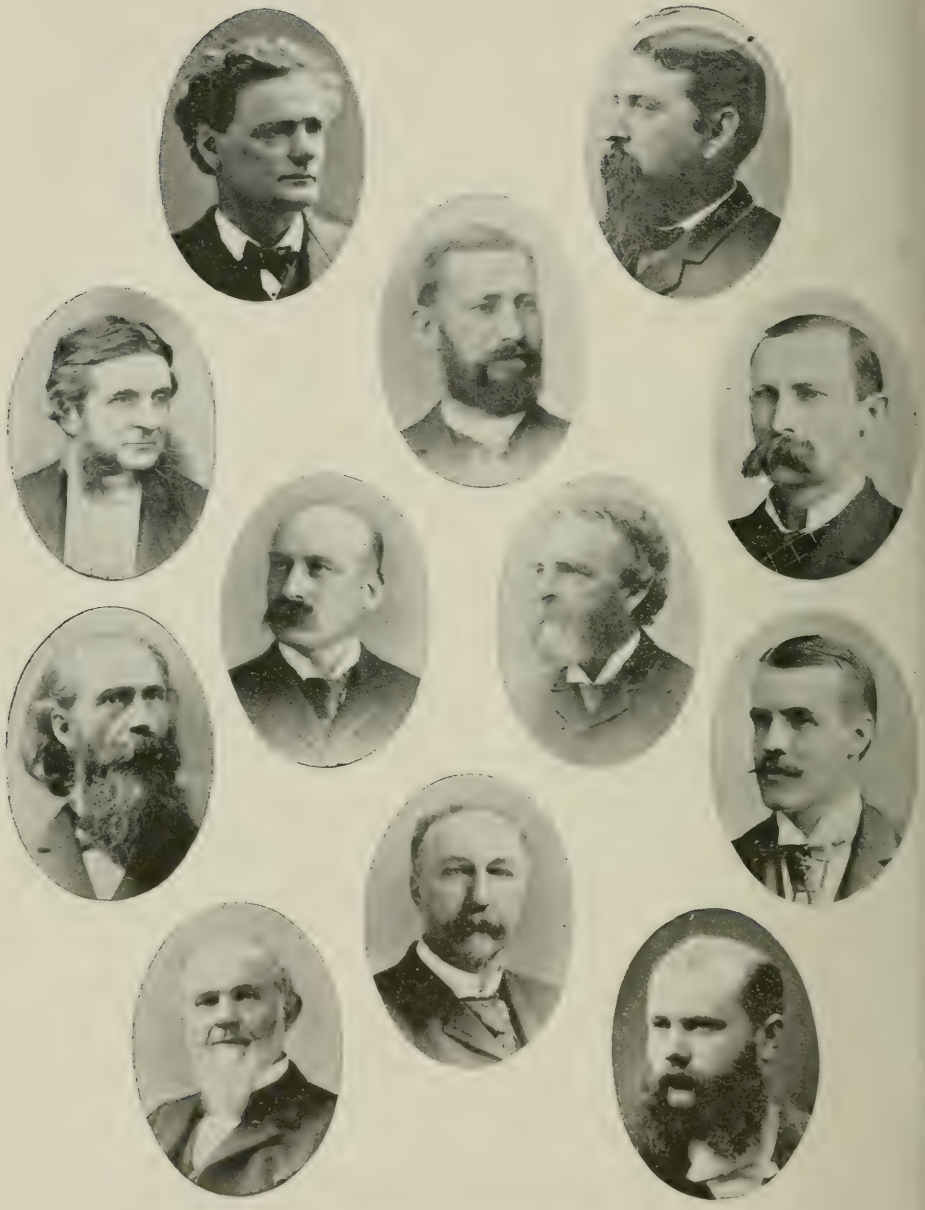
The President was empowered and directed by the Congress to appoint additional Vice-Presidents for the various States, Territories, Provinces and Countries, which will be done in the future.

Members of the Congress receiving this circular, who have not sent their enrolling fee, will please do so, and circulate this among those who take an interest in the Science.

Your early response is requested to either of the undersigned.

MORITZ ELLINGER,
Surrogate's Office,
New York City.

CLARK BELL,
*President,*
57 Broadway, N. Y.



PORTRAITS OF EMINENT ALIENISTS AND MEDICAL MEN.

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DR. SIMON FITCH, Nova Scotia.

PROF. J. T. ESKRIDGE, Colorado.

DR. H. C. DUNAVANT, Arkansas.

DR. H. J. BROOKS, Elgin, Ill.

DR. L. A. TOURTELLOT, Utica, N. Y.

DR. ISAAC N. QUIMBY, New Jersey.

DR. B. T. SANBORN, Maine.

DR. GEO. B. MILLER, Philadelphia, Pa.

DR. C. A. LINDSLEY, New Haven, Conn.

CORONER M. J. B. MESSEMER, New York.

# MECHANICAL RESTRANT IN THE CARE AND TREATMENT OF THE INSANE.

When PINEL struck off the chains and manacles that restrained the insane at the Bicetre, in Paris, in the days of the French Revolution, he grievously offended the Superintendents of the Asylums of France, in depriving them of the right of exercising their discretion as to restraining the insane patients, either for their own good or from doing bodily injury to others.

It is not probable that many medical men in France in charge of the insane believed it possible to keep these unfortunates safely without the bonds, which this eccentric, but wise and far-seeing, enthusiast, broke into pieces never to be again riveted upon the limbs of Frenchmen.

Recently France placed his statue in her chief city, to commemorate an act and life which should have canonized him, if relief from needless human suffering is a virtue, and of beneficence to the race.

The scales that fell from the eyes of those who deemed these safeguards absolutely necessary for the personal safety of keepers and the good of the afflicted, weighed equal in that eternal balance which in its other cup held the broken shackles declared no longer necessary in the insane asylums of France.

GUISLAIN broke the same magnificent truth to Belgium when he inaugurated the doctrine that bonds, manacles, and restraints were not the royal roads or means by which the "mind diseased" could be brought back to sanity, and that these were not the true methods for the proper care and treatment of the insane.

The labors of the elder TUKE, followed by grand JOHN CONOLLY, inaugurated that crusade against the horrible abuses of the insane in Great Britain, which the Earl of SHAFTESBURY so vividly described in his earlier labors, and which he lived long enough to see banished from British asylums by universal popular acclaim.

While these grand and noble reformers were marching with splendid upward strides on the eastern shores of the Atlantic, the American leaders of Alienistic thought and progress seemed ignorant of this enormous revolution in mental medicine abroad, and the atrocities, barbarities, and abuses of the helpless and defenceless insane went on here, almost without hope of relief or remedy.

I have seen, in an almshouse in this State of New York, a naked woman, confined in a dark room, without light, with a grating for a door, without bed or clothing, sleeping on straw alone, in all ways treated like a wild beast, which she of course in her condition much resembled, lying in her own ordure, and this not so very long ago, and the Superintendent of that asylum, in common with Superintendents of the other American asylums where restraints were used, believed all these terrible restraints and appliances were indispensibly necessary, and would have so sworn in a court of justice, with a free conscience.

Dr. ALICE BENNETT, Superintendent of the Pennsylvania State Hospital for the Insane, at Norristown, told me that when the Philadelphia Almshouse burned a few years since and she offered asylum to some of the women who had been inmates, they were sent to her chained at the legs, like criminals!

But, gradually, came in recent days the silent growth of a bloodless revolution of thought, that, like the trade winds, blew westward from England, France, and Belgium across the Atlantic—that new doctrine of PINEL, of the elder

TUKE, of GUISLAIN, and of CONOLLY—that the insane were men and women of human flesh and blood, and that kindness and tenderness, love and affection, were stronger and more efficacious with them than even bands of iron or hoops of steel.

And soon came out of the darkness, American Superintendents, one after another, who, reared under the old teaching, and filled with other traditions, imbued with their Anglo-Saxon hate and distrust of change and the introduction of new ideas, determined to try and see if the insane needed chains or bonds or muffs or camisoles, and who having tried, tasted, aud succeeded, strove on until they stepped up into the bright, eternal, and shining light of the grand truth that restraint was not necessary at all.

Englishmen like D. HACK TUKE and GEORGE H. SAVAGE, who knew the high standard of British asylums, could not have dreamed of the existence in our own day of such abuses as existed here, and as the former found at Longue Point Asylum, in Canada, and in other quarters, which are now, thank God, fast disappearing.

Onward swept the current of reform, long delayed by that sturdy fighter, Dr. GRAY, of Utica Asylum, who, with his strong personality, kept New York lagging in the rear of the movement, until, at his death (timely for this reform), his cribs and other appliances were swept away by an irresistible impulse and current, that brought the New York State Hospitals, almost at a bound, into the front rank, under the impulse given by Dr. G. ALDER BLUMER, the pupil, but not in this respect the disciple of GRAY, into a practical abolition of mechanical restraints, which had hither to been almost universal and are now almost wholly abandoned in the Empire State.

There are those who, surviving a great revolution, see not its results. They are blind to what all else see, and, like

Ephraim, are joined to their idols, and should, like him, often be left alone. Such are those scattered men who, here and there standing alone, and surveying the field that has been swept by the deluge of advancing thought, are oblivious and unconscious of what has has been carried off by the flood. They stand where their fathers and grandfathers stood, and they use the restraints they learned to use in their youth and practiced in their middle life, and, having ears, hear not the rushing of the waters, and eyes, see not the effulgence of the light that has come in after the deluge, and with its beneficent rays illumined all the landscape of scientific thought and progress.

Dr. Henry Maudsley, once, dining with me at my club in New York, related an anecdote of a physician from a private asylum calling on him to see if he could borrow a camisole for an experimental trial, and how indignantly Maudsley demanded some justification for his thus imagining for a moment that he would have such an implement in his place, and Dr. Maudsley stated to me on that occasion that he never used a camisole in his life.

Dr. Peter Bryce, one of the ablest of American alienists of our generation, a pioneer in the American reform movement of non-restraint, in his last annual report made his usual announcement of the success that had crowned their efforts for ten years in the Alabama State Hospital, where there had been, in a household of an average of 1,000 patients, no resort whatever to any species of mechanical restraints for either surgical or other purpose, and using this remarkable language:

"Not a vestige of restraining apparatus of any kind is to be found about the premises, nor has there occurred a single case in the wards of the Hospital during this long period which seemed to justify or require its use."

This extract from his report was published in the MEDICO-LEGAL JOURNAL, Vol. 8, page 311, (March number, 1891.)

The same number of the JOURNAL contained editorial comments upon Dr. Bryce's report (P. 373), making the contention:

1. That the fact that non-restraint had been so successfully and so long practiced at such asylums as the Alabama State Hospital, under Dr. BRYCE; the Pennsylvania State Hospital for Insane Women, at Norristown, Pa., under Dr. ALICE BENNETT; the New York Asylum for Insane at Willard, under Dr. P. M. WISE for so many years, and since under his successor, Dr. CHARLES W. PILGRIM; at St. Ann, Paris, under Dr. MAGNAN; at Broadmoor Criminal Asylum, under Dr. WILLIAM ORANGE, and his gifted successor and pupil, Dr. DANIEL NICHOLSON had demonstrated that mechanical restraints could no longer be claimed to be even necessary, much less *indispensably* so, and—

2. That the claim that "a superintendent should have the right to resort to mechanical restraints only in extraordinary cases, and when all else fails" should be conceded, and as a consequence the whole question relegated "to the discretion of the Superintendent," was both unsafe and fallacious; because—

(*a.*) In PINELS' time what was done was under precisely such a discretion, and the same was true in CONOLLY'S day, and in every asylum in the world where it is now practiced, the Superintendent is usually sincere and fairly honest in believing it to be necessary, and—

(*b.*) That it retarded recoveries, and inflamed and outraged the patient so as to put him in grave dangers, and converted asylums into a pandemonium, as asylums frequently are where it is practiced, and—

(*c.*) A comment upon recent utterances of distinguished English alienists which had been quoted to sustain prac-

tices and abuses that would not have been countenanced for a moment in British asylums.

These publications led Dr. THEO. DILLER, of Pittsburgh, Pa., to ask the publication of a paper taking the opposite views. The MEDICO-LEGAL JOURNAL is not willing to reject the opinions and views of those who differ from its editor, and Dr. Diller's paper is given, as well those of other gentlemen qualified to speak on this subject on both sides of the contention. The paper of Dr. Diller is given:

TO THE EDITOR OF THE MEDICO-LEGAL JOURNAL:

*Sir:*—It is to be feared that many who advocate entire non-restraint of the insane take this position not so much because they believe it to be *right*, as they believe this position to be *politic*. They know full well that among well-meaning philanthropists who have no practical experience in dealing with the insane the statement that "no restraint whatever is used" will be hailed with great applause. Seemingly they are far ahead of their brethren who advocate "judicious restraint," and accordingly they receive greater *eclat*. In my opinion the "entire non-restraint" men do not really treat their patients as kindly as the "judicious restraint" men. This latter class, it must be remembered, is a long-suffering one. It is no small matter for men like Savage and Hack Tuke, who are among the most humane and progressive of the Superintendents, to be continually having insinuations and innuendoes cast upon them by their hyper-righteous "absolute non-restraint" brethren. It is bad enough to intimate that the "judicious restraint" men have less tact and judgment than the "non-restraint" men; but to charge them with being less humane is going much too far.

Drs. Hack Tuke and Savage restrain patients who, if they were under the care of Drs. Bryce and Wise, would not be restrained—for certainly Wise and Bryce must handle the same kind of patients that Tuke and Savage do. Now, is it

fair to infer that these patients, who were restrained, would have been better off had they not been restrained? I answer, most probably *no*; but on the contrary they were better off for being restrained. They were more humanely treated.

Let us suppose that Dr. Savage restrains a patient suffering from that most terrible of all forms of insanity, acute delirious mania; another one in the violent fury of post-epileptic excitement; another (a paranoic), who would terribly mutilate his body in obedience to imperative conceptions. Dr. Bryce would, I am sure, also do something; but at all events he would *not* restrain these patients. *What would he do?* He *could* control all these patients by having strong, vigorous attendants constantly hold them, or be so near them as to be ever ready; he *could* also control them by giving $\frac{1}{3}$ gr. morphia with 1-60 gr. of hyoscine (repeated, if necessary), or some other hypnotic or soporific. Ah! but I have almost forgotten—kind words! These do wonders. Yes, so they do, in many cases of insanity. But in the instances mentioned they would do about as much good in deterring these patients as they would in mitigating the force of a Dakota blizzard. Now I hold that a merciful restraining apparatus is far more humane than the use of strong drugs or strong attendants (although both these have their places). But if Drs. Bryce and Wise would manage the cases cited not only without any restraint, but also without the use of the other means I have suggested, I would very much like to know how they *would* do it.

I have myself done patients injustice by being at one time too much imbued with the "absolute non-restraint" idea. Let me relate a single instance. I had under my care, while assistant physician at Danville, Pa., a lady who suffered from delusions of persecution. She was occasionally greatly agitated. In one of her disturbed periods she developed the

most violent suicidal proclivities and desires to inflict bodily injury upon herself. I ordered two attendants to watch her closely, but not to harass her by taking hold of her unless absolutely necessary. In the evening I found the patient with a terrible bruise on her forehead, the result of bumping her head against the wall. An attendant was ordered to be with her constantly. That same evening the patient, in spite of this surveillance, tore three of her finger nails off, and said she was determined to "finish the job." Next morning she was placed under the especial care of two attendants, who walked with her, and never left her for an instant. In spite of this she took a dive head-foremost on the floor, and broke her nose. I now laid aside my "absolute non-restraint" notions, and put a muff on her, and permitting her to walk in the ward only arm-in-arm with an attendant; she was restrained in bed at night. This rigid system was kept up for four or five days. It was gradually removed as the unfortunate woman returned to her usual condition. I may say that this patient was a very cultivated, refined lady. When her usual medical condition had returned she said to me one day: "Sir, I fear that, owing to your contributory negligence, I shall have a deformed nose all my life. Did you not know that I was utterly incapable of resisting those terrible inward promptings to kill myself?" I felt the rebuke keenly.

I hold that it is wrong in itself to take the stand "no restraint under any circumstances," for the Superintendent who does take it may allow patients to mutilate themselves or suicide just to make a record in following his cast-iron rule.

*Kindness!* So much cant and sophistry has been uttered on this subject that one is almost nauseated to read some of it. Of course it is a wondrously potent quality in a medical office or attendant in an insane asylum, or in any one else; but to contend that it will invariably have power in quieting

patients, is farsical. Kindness would have no more effect on the violence of the epileptic than it would have on the infuriated bull charging on his victim. Of course harshness is *always* wrong.

Certainly there is danger that restraint maybe (as it has been), carried too far. Is there any good thing which may not be abused? There is more danger to patients in asylums where absolute non-restraint is the rule than where restraint is used in proper degree and amount. As a matter of fact but a small amount of restraint will be needed in a well-regulated asylum containing as many as a thousand patients.

The cast-iron rule of "absolute non-restraint" is scarcely less pernicious than too much restraint.

THEODORE DILLER.

Pittsburgh, Sept. 28, 1891.

Dr. P. Bryce, to whom I sent a copy of Dr. Diller's paper, requesting his views, replied as follows:

Alabama Insane Hospital, Tuscaloosa, Ala., Oct. 8, 1891.

To the Editor of the Medico-Legal Journal:

*Dear Sir:*—I have read Dr. Diller's paper carefully over, as you request, and find nothing in it that has not been satisfactorily answered a hundred times within the last decade.

The point the Doctor seems to be aiming at is that "judicious restraint" and not "absolute non-restraint" should be the guiding principle in the management of the insane. He does not deny that there are scores of hospitals, both at home and abroad, that are successfully conducted without the use of mechanical restraint of any kind. He does deny, however, that this system is either as humane or as successful in its general results as what he designates the "system of judicious restraint." Of course the mere affirmation of a loose and narrow generalization like this carries no weight with thoughtful, disinterested inquirers after truth. "Judi-

cious restraint" sounds very well on paper, but when and where was it ever put into practice? In the use of power the best of men can rarely be trusted. But when it is borne in mind that the exercise of this power is distributed among hundreds of superintendents, asssistant physicians, supervisors, and nurses, it is really amazing that any thoughtful physician, who has had the least experience in the care of a large hospital for the insane, should be found to advocate it. I am speaking now in no disparaging manner of my *confreres*. We are all alike. I know by experience that I cannot trust myself to act always "judiciously" in the exercise of absolute authority. Neither can I ascertain all the facts in every case, among my twelve hundred patients, calling for the exercise of this power; and I am therefore compelled, even were I "judicious" myself, to rely very largely upon the judgment of others.

In a large hospital of a thousand or more patients, how can the medical superintendent or his busy assistants find time to investigate carefully every case that is reported by the supervisors or nurses as proper subjects for mechanical restraint? In the application, therefore, of what Dr. Diller designates "judicious restraint" we see that so much depends on the temper and discretion of subordinates, that abuses must almost necessarily creep in.

But my own experience has taught me that mechanical restraint, whether "judiciously" applied or not, is in the end productive of more harm than good so far as the welfare of the patients as a whole is concerned. The mere fact that strait jackets, muffs, bed straps, crib bedsteads, and other such degrading apparatus are used in the hospital is quite sufficient to engender a spirit of insubordination, distrust, and discontent among the inmates. And its effect upon the nurses and others having immediate control of the patient is hardly less demoralizing and pernicious. It quickens the

temper, and creates a spirit of impatience, often of arrogance, which is extremely harmful. It begets, too, a spirit of intolerance which leads to threats, irritates and harasses the patient, instead of kind words, which soothe and placate him.

That a case now and then presents itself in which mechanical restraint would be of service to the patient, I do not doubt, but the effect of such discipline upon the household at large would be anything but beneficial, and it would be far better that this exceptional patient should suffer for want of such restraint, than that the peace, happiness, and self-respect ofthe entire household should be destroyed by the use of it.

But even these exceptional cases are of much rarer occurrence than Dr. Diller would lead us to believe. In the course of eleven years of absolute non-restraint in a household of twelve hundred patients, I cannot recall a single case that has suffered the least damage for want of restraint—in fact that has not been better off without it. The case of acute delirious mania referred to by Dr. Diller, and the lady who suffered from such intense nervous excitement, growing out of her delusions of persecution, would have been placed in seclusion in this hospital, and not permitted, as they were, to rush up and down the wards, butting their heads against the walls, and pitching headforemost upon the floors. These delirious forms of insanity should be kept quiet, in bed, if possible, and in an apartment separate from the main wards, prepared especially for their safe keeping and treatment. Quieting remedies should be administered, and everything done to abate the intense nervous excitement. Under such treatment in this hospital these cases of acute delirious insanity are generally soon quieted, and in a few days are able to take their accustomed places in the work rooms or in the wards. It may be that an extra nurse is required for a while,

to keep the patient in bed, and to give such attention as a very sick or delirious person needs; but this is a requirement easily met, and withal comparatively inexpensive.

There are a number of chronic dements in every hospital who occasionally strip themselves of their clothing, destroy furniture, break glass, etc., and these persons, more than any others, would seem to call for manual restraint; but our experience goes to show that even they are better off in the end without it, and that a little closer watching and training on the part of their nurses does more to break up the bad habit than the severer measures of restraint.

It is certainly true, in the history of this hospital, that there is less destruction of furniture and clothing, less breakage of glass, less violence to self and others, and less turbulence generally, under the system of absolute non-restraint than there was when we practiced what Dr. Diller calls "judicious restraint." Not only so, but the inmates of the hospital are happier, have more respect for themselves, are less discontented, more industrious, more confidential in their relations to the officers, nurses, and others, and more appreciative generally of the effort made to secure them all the comfort and liberty consistent with their mental condition. There has been fewer suicides, fewer fights, fewer injuries to self and others, since we abandoned restraint than there was before.

Ninety per cent. of our women and seventy-five per cent. of our men are daily engaged in useful and profitable labor. The men have the free use of spades, shovels, axes and other farming implements, while at least fifty of our better class of patients work in shops where a full set of carpenters tools are of easy access and in constant use. Accidents rarely occur from abuse of these privileges—so rarely, indeed, that I cannot now recall a single instance within the past twelve months. I believe this state of affairs is largely due to the

abolition of all mechanical restraint and other harsh measures in the treatment of the patients.

In conclusion, we find nothing in Dr. Diller's paper to induce us to change our views after an experience of eleven years in the non-restraint treatment of our patients. That the Doctor and others have tried the system and failed in securing satisfactory results is no evidence that the system itself is at fault or impracticable, and does not weigh one iota against the long, unbroken and successful experience of scores of hospitals for the insane, both in this country and in Europe.

Instead, therefore, of heaping personal abuse upon the advocates of non-restraint, and impugning their motives, as he does in the beginning of his paper, it might be more profitable for the Doctor to inquire a little more closely into their methods of management, and discover, if he can, the cause of his own failure, and the secret of their success.

P. BRYCE, M. D.,
*Sup't.*

I received the following reply from Dr. P. M. Wise, now Superintendent of the new St. Lawrence State Hospital, at Ogdensburg, New York, who was for many years Superintendent at the State Asylum for the Chronic Insane, at Willard, N. Y., to whom I wrote as I had before written Doctor Bryce:

St. Lawrence State Hospital, Ogdensburg, N. Y., Oct. 19, 1891.

Clark Bell, Esq.:

*Dear Sir:*—The nauseating effects of "non-restraint" literature upon Dr. Diller would indicate that he confined his reading to reports and discussions that were current a half dozen years since. He certainly has no reason to be "nauseated" by any non-restraint doctrine emanating from me, and unwarrantedly uses my name, as well as that of other esteemed medical men, in this connection. If he

would take the trouble and read my reports for the last seven or eight years he would find my position in regard to restraining apparatus in the care of the insane definitely stated.

Briefly stated, my belief is that any means, material, moral, or intellectual, that can be applied for the alleviation of insanity, is within the province of the physician to use. If it was my judgment that the application of a mechanical contrivance to an insane person would be the means of cure or improvement, there would be no hesitation in its application. I would not, however, follow the example of Dr. Liller, and tie an insane woman's hands in a leather muff to prevent her from breaking her nose upon the floor. It requires some intelligence, by the way, to select cases that would be benefitted by restraint, and it is remarkable how seldom it is used when the inquiry is so directed.

The restraint question is practically settled in this country, and Dr. Diller's threshing of old straw will not yield him anything. There is no difference of opinion at the present day among Superintendents who are abreast of the times; and, if the practice does slightly differ, it is a matter of very little importance, except in the estimation of some hysterical sentimentalists.

As a matter of practice, I do not use restraining apparatus. My assistants do not find occasion for its use, and my attendants do not understand its use, but this would in nowise deter me *from* its use, if, in my judgment, it wonld be a saving element in treatment.

I hope I am understood.

I am respectfully yours,

P. M. WISE.

Believing that the views of those who had experience in hospitals for insane, and others who had studied the subject, might be of service in arriving at an intelligent consideration of the question, and without regard to the views entertained

by any upon the subject, pro or con, I enclosed a copy of Dr. Diller's paper to several Superintendents and others whom I regarded as competent to speak, and wrote letters substantially as follows, after deciding to bring Dr. Diller's paper before the Medico-Legal Society, at the November meeting, for discussion:

*My Dear Sir:—*

I enclose copy of a paper by Dr. Theo. Diller, of Pittsburgh, Pa., that will be read at our meeting, November 11th, inst. Dr. P. Bryce and Dr. Wise will, I hope, reply, and some others. I would be glad to have your views upon the question.

Should not the fact that such Superintendents as Dr. William Orange and others in England, Dr. Bryce, Dr. Wise, Dr. Alice Bennett, Dr. Alder Brumer, Dr. W. B. Fletcher, Dr. J. C. Shaw, and many others here, who have been for years able to carry on their work without resorting to mechanical restraint, be quite conclusive that it was not indispensably necessary?

And should not all those who have the insane in charge feel a common interest in reducing this system of restraint to its minimum, and in correcting acknowledged abuses.

Kindly let me have your views as early as possible.

Faithfully yours,

CLARK BELL.

I had previously sent a copy of the paper of Dr. Diller to Dr. Henry Maudsley and Dr. William Orange, of London, and to eminent men in Scotland, Ireland, Belgium, and France for their views upon the general questions involved in the discussion opened in the March number, 1891, of the Journal, and had also written Dr. D. Hack Tuke, advising him that Dr. Diller's paper would be read, saying his views, if stated, would be published, and asking him to advise Dr.

Savage of the fact, and furnish him with the copy of Dr. Diller's paper I had enclosed.

Many replies were received, quite a number of which were read at the session of November 11, 1891, and the authority of the Society given to publish the same in the JOURNAL.

Dr. WILLIAM B. FLETCHER, who for many years was Superintendent of the Indiana State Asylum at Indianapolis, replied as follows:

INDIANAPOLIS, Ind., November 2, 1891.

HON. CLARK BELL, PRES. MEDICO-LEGAL SOCIETY, N. Y.

*Dear Sir:*—By mechanical restraint in the treatment of the insane I understand that which hampers, holds, or compresses any limb or member of the body.

In a sane person—a criminal, for instance, with gyves upon his wrists and legs, or bound by cords, no reflex forces are excited. Reason shows the strength of the fetters, judgment tells they cannot be broken; hence neither galls, bruises, nor exhaustion of strength is produced by a fruitless contest of forces. The sense of physical restraint to a person with acute delusional mania—or epileptic mania—is to throw the whole nervous and vascular system into a state of resistance which only ends by complete exhaustion or death.

In eight years' constant association with the insane, in a hospital with sixteen hundred patients half that time, and in private practice with *only acute insanity* the other half, I have seen no case where I believed mechanical restraint necessary for the safety of the patient or advisable for treatment.

I am a believer in therapeutic restraint, in that it stops excitement, it prevents reflexes, it produces *rest*, and rest promotes recovery. With the advance in our knowledge of therapeutic agents there is no need of a person dying from exhaustion or of injuring himself or others. Words of kind-

ness, firmly spoken, are of decided benefit to persons with acute mania, for they are *always remembered.* Physical force and words of command are only adapted to the treatment of a quiet class of indolent, neurasthenic, hysterical cases, who, like army mules, require a fire to be built under them to make them pull out.

Yours very truly,

W. B. FLETCHER.

Dr. CHARLES W. PILGRIM was trained at the State Asylum for insane criminals, at Auburn, under the superintendency of Dr. C. F. MacDonald, and at the Utica Asylum, he had served under Dr. Blumer after the death of Dr. Gray, and when Dr. Wise took charge of the new State Asylum at Ogdensburg, N. Y., Dr. Pilgrim took charge of the Insane Asylum at Willard, which had been for so many years under Dr. Wise, and before him of Dr. Chapin. I submit Dr. Pilgrim's reply:

WILLARD STATE HOSPITAL, Willard, Nov. 3, 1891.

CLARK BELL, ESQ., 57 Broadway, New York:

*Dear Sir:*—In reply to your letter of the 31st ult., I would say that I am a firm believer in the non-restraint system, although I should not hesitate to use mechanical restraint if, in my judgment, the patient would be benefited by it. It is my belief, however, that the use of mechanical restraint is almost never necessary. At least such is my experience with a population of nearly twenty-one hundred cases, many of which are acute. I have had several years' experience with both systems, and I have no hesitation in saying that in my judgment an institution can be much more successfully managed without mechanical restraint than it can be with it. I am,

Very truly yours,

CHAS. W. PILGRIM.

Dr. G. ALDER BLUMER, Superintendent at Utica State Hospital and successor to the late Dr. Gray, was at first

disinclined to reply, but finally, on being urged, sent the following:

UTICA STATE HOSPITAL, Utica, Nov. 5, 1891.

CLARK BELL, ESQ., *Medico-Legal Journal*, 57 Broadway, New York City:

*Dear Sir:*—It is emphatically an anachronism to be arguing the question of mechanical restraint in this year of grace 1891. The question is surely settled in this State among progressive alienists, and may be said to have finally resolved itself into this simple proposition: Mechanical restraint is rarely justifiable. Five words are sufficient, and any amplification of the proposition is mere tedious verbiage. Non-restraint is nowhere accepted as a dogma, but it *is* recognized as a cardinal *principle* of treatment in all well-regulated hospitals for the insane.

It is no "great honor and credit" to myself, as you are gracious enough to state, that it has not been found necessary to resort to mechanical restraint for several years at this hospital. I believe Dr. Carlos F. MacDonald (then of the State Asylum for Insane Criminals, at Auburn, N. Y.), was the first Superintendent to demonstrate the entire practicability of non-restraint in this State. All we can justly claim is our openness to conviction, our willingness to follow the lead of others in anything that makes for the betterment of hospitals for the insane, and our contempt for puerile stickling as to questions of priority in any humane movement.

On February 27th, forty-six years ago, Dr. Amariah Brigham, the first Superintendent of this asylum, wrote to Dr. Pliny Earle, a letter in which I find the following paragraph:

"I have determined to try the disuse of mechanical restraint, *a la* Conolly. I have hired additional help, and got all hands ready to co-operate, and will earnestly and fairly

try it. I am inclined to think that, although such restraints do good in some cases (just as a few strokes of the whip would in some instances), yet the bad moral effect might counterbalance all good; so I will try."

Would that some of our special pleaders for obsolescent methods of treatment would make the same faithful and conscientious effort, instead of wasting their time in threshing the old straw of prejudice and conservatism, or at least indulge their solecisms in practical psychiatry with as much privacy as possible!

Yours very truly,

G. ALDER BLUMER.

Dr. JOHN B. CHAPIN is an alienist of experience, who for years was at the head of the Hospital for the Chronic Insane, at Willard, N. Y., and was called to the charge of the Pennsylvania Hospital for the Insane, at Philadelphia, on the death of the lamented Dr. Kirkbride.

His reply was as follows:

PENNSYLVANIA HOSPITAL FOR THE INSANE,
Philadelphia, Nov. 6, 1891.

MR. CLARK BELL:

*My Dear Sir:*—Your note, accompanying the article by Dr. Diller, was duly received. I reply briefly that during the past twelve years there has been a gradual reduction of the use of mechanical restraint in the care of the insane in the asylums and hospitals of this country. In several of these institutions it has been fairly and actually abolished, and in others rarely used.

Whether we should adhere to a non-restraint plan of management as a dogma, or, as physicians direct its intelligent and proper use in certain cases without a liability to its abuse, are important questions. That restraint may in certain cases be applied with good results to accomplish strictly medical purposes, I am willing to concede.

The abolition of unnecessary mechanical restraints has come about, and has been possible, only by training attendants to perform a better quality of service. Non-restraint is but one of the incidents, and one of the accompaniments of an improvement in the system and methods of caring for the insane which has been going on for several years, but cannot be called a "system."

Truly yours,

JOHN B. CHAPIN.

Dr. D. HACK TUKE, the descendant of the Elder Tuke, who was a contemporary of Pinel, one of the founders of *York Retreat*, is one of the editors of the *Journal of Mental Science*, and whom Dr. Diller had quoted as an Asylum Superintendent. He responded to my note briefly as follows:

HANWELL, W. ENGLAND,
October 21, 1891.

Thanks for letter and the enclosure. I am afraid I am too late to ask you to alter the wording of the passage in which Dr. Diller speaks of Dr. Savage and myself as superintendents. If not too late, let me be referred to *not* as a superintendent. If anything let it be as one who in *private practice* approves of and occasionally employs restraint. It is a pity the writer made the mistake.

Sincerely yours,

D. HACK TUKE.

CLARK BELL, ESQ., Barrister, President of Medico-Legal Society, New York, U. S. A.

HENRY MAUDSLEY, M. D., London. No medical man in London, if in the world, has greater renown among English speaking writers and thinkers in the domain of mental research than Dr. Maudsley. His most celebrated work on "The Mind" gave him international fame. Intimately related to CONOLLY, and a close observer and factor in

those changes that brought the reformers' views into universal acceptance in England, he has had an experience and knowledge of the subject second to no Englishman now living.

His reply, which, with Dr. Hack Tuke's, was received in time for the November meeting of the Society, was as follows:

12 QUEEN STREET, MAYFAIR, W. LONDON,
29 October, 1891.

DEAR MR. CLARK BELL:

I am sorry, not surprised, to learn what Drs. Hack Tuke and Savage have done to comfort and aid those who use mechanical restraint to treat disordered minds.

It could hardly fail to be so, for the mischief of the thing is that it appeals forcibly to those who by natural temper and lack of sympathetic imagination are prone to use it, and, using it, pretty sure to slide into the abuse of it. Were there no argument against its use but the certainty of its abuse, that might well be enough to forbid it; seeing that those who could use it wisely find that they don't need it, while those only need it who ought not to be trusted with it.

It does not really prevent struggling with and violence to patients, as contended, but, on the whole, by brutalizing attendants, probably tends to increase it. The enclosed newspapaper extract with regard to an inquest at Bethlehem—by no means a solitary instance—will show you what I mean.

It is a pity that Drs. H. Tuke and Savage never had any practical training in a large asylum where no use was made of mechanical restraint. They speak, therefore, however self-confidently, without really adequate knowledge. The former, so far as I know, has had no practical experience whatever in the management of an asylum—never even lived in one—and the latter had no special training when he went to Bethlehem, where restraint grew to such a height, before his resignation, as to move Dr. Bucknill (one of the governors), to protest publicly. Two years before that I had written an earnest protest privately to Dr. Savage.

I hope, therefore, your countrymen will not overrate the authority of those gentlemen, especially when it is remembered that our country asylums—the best training ground for asylum management—have been conducted well for 30 or 40 years, by men nowise inferior to them in any respect, and superior in practical experience, without mechanical restraint. Moreover, Morel, who came to England specially to study the system of non-restraint at Hanwell, adopted it, and Greisinger also was its advocate. For my part, I can't help saying that I had rather go wrong with Morel and Greiesinger than go right with Drs. Savage and Hack Tuke.

Believe me, yours faithfully,

H. MAUDSLEY.

P. S. I am sorry I can't undertake to send you a paper. The argu-

ments *pro* and *con* have been repeated *ad nauseam*. And the tone and style of the proof which you kindly enclosed amply prove how useless any argument addressed to the mind of its writer would be—unless it was an argument that jumped with his conclusion.

The extract enclosed was from the *London Standard* of December 23, 1887, and was an account of an inquest held by Coroner S. F. Laugham at Bethlem Hospital on Wm. S. Smith, an inmate who had died there the preceding Sunday.

The *post mortem* made by order of the coroner disclosed that the 5th rib on the right side was broken completely through, and the 5th and 6th rib on the left side partially broken through. The assistant medical officer was not aware of any injury to the ribs until the *post mortem* was made. There was no evidence to show how the ribs were broken, though the head attendant and the attendant in charge were both sworn, but disclosed nothing on that subject. The wife of the deceased stated that her husband had been forced into a canvass suit, and claimed that her husband had died from violence at the hand of an attendant named Wilson. The coroner said to her, "But you have heard what the attendants say." She replied, "Yes, but of course they would not incriminate themselves. They told me they had to use violence to put him into the dress."

The verdict under the coroner's charge was "Death from blood poisoning resulting from fractured ribs, but how occasioned there was no evidence to show."

It was shown he had received a blow on the nose from an inmate, but aside from the statement of the wife, there was no evidence as to how the ribs were fractured.

Dr. L. A. TOURTELLOT, for sometime connected with the Utica Asylum, New York, replies as follows:

TO THE EDITOR OF THE MEDICO-LEGAL JOURNAL:

*Sir:*—It is true that the doctrine of non-restraint in the care of the insane is not based upon any theory of the nature of insanity, or its scientific treatment. While denying the use of mechanical restraints, we must admit that restraint, both moral and physical, is part of a proper system

of care and treatment. No one, indeed, can deny the necessity of a control of the insane by their attendants, or the utility of locked doors and guarded windows in most parts of an asylum.

But the doctrine is a practical one, and if the experience of a large majority of our profession, in this country and in Europe, is trustworthy, the insane can be treated to the best advantage, with reference to their comfort and safety, as well as their cure, by the system of non-restraint. In what does this advantage consist?

The most serious abuses found in asylums are, of course, the injuries, so often fatal, inflicted upon patients by their attendants. In every investigation of these abuses which has come to my knowledge within the last thirty years, the lesson of the verdict or report has been the necessity of a more careful selection of attendants, and their better training and discipline. Reform in this direction has been begun, but it will be slow while attendants are chosen and retained through the influence of politicians, as is the case in many of our asylums to-day. There is, also, the irremediable evil of the enormous size of these asylums, which renders it wholly impossible for their one responsible head to see that just and proper treatment is given to every patient. It is easy for attendants to combine together to indulge their brutal passions or their love of ease, and the various mechanical restraints which have been devised are well-fitted to serve their purpose. There is no one to dispute with the attendant that the facts in any case are as he represents them, and if restraints are admitted to be necessary for one patient, they can be made to appear so for twenty or fifty. Now, it is in the unnecessary, and therefore unjust, use of these restraints, and in the resistance provoked by such use, that the greater number of cases of violence to the insane have their origin. Where the use of restraining apparatus is wholly forbidden, and especially where it is known that everything of the kind has been banished from the asylum, the methods of attendants must of necessity be changed. There is no safety except in constant watchfulness, and where the patient is no longer absolutely helpless, as when restrained by a camisole or muff, the proper means of moral control are resorted to, and are found effective beyond all expectation. From being a master, the attendant becomes the guardian and friend of his patient, whose delusions of enemies surrounding him slowly fade away, and the sense of injustice, which excited a desperate resistance to his tyrants, is no longer felt.

It is plain that the non-restraint system requires a larger number and a better class of attendants than are found in asylums conducted according to the old method. But there can be no difficulty in fulfilling these conditions, if the financial reform of asylums is carried out according to the plans of the State Commission in Lunacy. When their treasuries are once released from the grasp of politicians, it will be found that ample funds are provided by the public for the additional cost of the non-restraint system and other kindred reforms. Among these is the abolition of chemical restraints, in the shape of stupefying and depressing drugs. There is a strong tendency in asylums which are driven to the policy of non-restraint by the pressure of public and professional opinion, to substitute chemical restraints for mechanical ones. Their use is, in my opin-

ion, equally dangerous to the lives of patients, and they do more to destroy the hope of cure in curable cases than all other abuses in the administration of our asylums.

In holding the doctrine of non-restraint in the care of the insane, let me say again that we should not give it the force of a moral law or a scientific induction. I believe that in ninety-nine cases out of a hundred in which restraints were formerly thought necessary, their disuse is not only practicable, but in every way beneficial to the patient. But if in the hundredth case these means are clearly indicated, as offering the best hope of safety and recovery to the patient, no conscientious physician will hesitate for a moment to adopt them. The fact, however, that medical men of the largest experience and the highest character do not report such exceptional cases, is proof that they are so rare as to furnish no argument against a system which has done more than anything else in the last fifty years to raise the standard of provision for the insane throughout the civilized world.

L. A. TOURTELLOT, M. D.

Utica, Nov. 7, 1891.

Dr. JAMES OLMSTEAD, who for some years has been in charge of the Insane Hospital at Middletown, Connecticut, replies as follows:

CONNECTICUT HOSPITAL FOR THE INSANE,
Middletown, Nov. 3, 1891.

CLARK BELL, ESQ.:

*My Dear Sir:*—In reply to your favor received yesterday, it is most certain that all who have the insane in charge should feel a common interest in restricting their patients as little as possible. In this hospital the opinion has prevailed that mechanical restraint, like opium or alcohol, should never be used except by prescription of physicians, and in every instance the physician must be prepared to demonstrate that the restraint contributes to the benefit of the patient restrained. The use of mechanical restraint is thus reduced to a minimum, and it is believed that, provided mechanical restraint is not left to the option of ward attendants, but is strictly under the direction of intelligent members of the medical profession, abuses are not likely to occur.

Very truly yours,
JAMES OLMSTEAD.

Dr. CARLOS F. MACDONALD, who was for many years Superintendent of the New York Asylum for the Insane called Criminals, at Auburn, New York, has been recently been called to the Presidency of the State Lunacy Commission of the State of New York.

He has a large and valuable experience, and is now exercising in his official capacity, in conjunction with the Board

of Lunacy Commissioners, a general supervision over all the asylums of the State. His reply was as follows:

334 FIFTH AVENUE, New York City, Nov. 9, 1891.

MR. CLARK BELL:

*Dear Sir:*—Replying to yours of Oct. 31st, in relation to the subject of "Mechanical Restraint of the Insane," I would say: I would consider it a waste of time to discuss that subject, at least so far as the State of New York is concerned, in the hospitals of which the practice of using mechanical restraint has been substantially abandoned, by common consent.

Respectfully yours,

CARLOS F. MACDONALD.

From communications made to me from various parts of this continent, and from some institutions in the State, it has seemed quite certain that Dr. Carlos F. MacDonald and many of our ablest alienists in this State were not at all aware of the extent and spread of the use of mechanical restraint in American asylums at the present moment, and that it was coming again into vogue under the authority of such names as Dr. Hack Tuke and George H. Savage and others, who gave countenance to its continuance.

The editorial article in the March number of this journal was inspired by such a conviction, and this discussion was initiated for the two-fold purpose of—

1. Illustrating to the profession and the public that the abuses still exist in certain quarters, and—

2. To show those who have not yet tried to dispense with such restraints, the propriety and feasibility of making the trial, as well as to encourage all such by the example of those who have succeeded in eliminating it wholly from hospital practice. What Dr. MAUDSLEY, Dr. ORANGE, Dr. NICHOLSON, and all the English Superintendents have done so long at Hanley, Broadmoor, and throughout Great Britain—what Dr. BRYCE, Dr. WISE, Dr. BLUMER, Dr. PILGRIM, Dr. SHAW, Dr. ALICE BENNETT, Dr. FLETCHER, and so many others have done—can be done by others if the trial is sincerely and earnestly made.

The succeeding replies, as well as Dr. Diller's paper, will demonstrate the wisdom of the present discussion, and aid us, under Providence, with an early solution of the question.

Dr. GERSHOM H. HILL, with a large experience in the Iowa State Hospital for the Insane, writes as follows:

IOWA HOSPITAL FOR THE INSANE, Independence, Nov. 5, 1891.

CLARK BELL, 57 Broadway, N. Y.:

*My Dear Sir:*—Your letter, and a copy of the paper by Dr. Diller, have been received. There is not the least doubt in my mind about the ability of any Superintendent to get along under all circumstances and always without the use of mechanical restraint. The only question in my mind is with regard to the advantage of declaring that restraint shall not be used in a given institution or in any institution for the insane under any circumstances. In the first place every officer in an institution where the insane are cared for knows that he can do without restraint if he is supplied with all the attendants he needs. The next question is whether there are not cases in which it is preferable to use a mild form of restraint—for example, a covered bed—instead of having the patient kept in bed by close watching or by being held by an attendant, one or more. In this hospital we never use camisoles nor bed-straps, but once in a great while we may put leather mittens on a patient to prevent her from tearing up her clothing or indulging in filthy habits. We use covered beds to a limited extent for acute cases, who are suffering from nervous exhaustion. I still believe that there are a few patients admitted to the hospital from time to time who will be more composed and thrive better in a form of restraint which is not uncomfortable than they would by being held or closely watched by attendants. Sometimes a patient requires a surgical operation or needs to wear bandages for a few days, but will not leave the dressings alone without some form of restraint.

In this hospital we have all the money we need to pay running expenses, and I am at liberty to hire all the help necessary to properly care for the patients. We are not particularly crowded, so that we can do all we wish in the management of our patients. We have in the house to-day 834 patients. We have on an average one attendant for every ten female patients, and one attendant for every fourteen male patients. If a covered bed is reckoned as a form of restraint, then we restrain on an average about one-half of one per cent. Concerning other forms of mechanical restraint, I do not think the average here would exceed one-sixteenth of one per cent., and yet I am not in a frame of mind to declare that we will never again use any form of mechanical restraint except the covered bed, and I am fully persuaded that the form of covered bed which we use, and which was devised by myself, is a great blessing to a few exhausted patients. This covered bed has a woven wire bottom, is always provided with a curled hair mattress, it has spindles at the sides and ends, and a frame of wire netting for a cover. This cover is fastened to the sides with straps, and can be separated from the bedstead, if we wish to use

the bed as a crib without a cover when a patient begins to regain self-control, and has become accustomed to the bed so that he will lie there quietly without the use of a cover.

I have frankly and fully stated the custom of this institution, and my opinions concerning mechanical restraint.

I shall be glad to learn which side of the question secures the preponderence of opinion. I am,

Very respectfully yours,

Dictated. GERSHOM H. HILL.

P. S. Patients in restraint are carefully watched here, but a single patient seldom has the whole time of one or more attendants.

Dr. SELDEN H. TALCOTT, at the head of the State Homeopathic Hospital, at Middletown, in the State of New York, a man of long and valuable experience there, replies as follows:

MIDDLETOWN STATE HOMEOPATHIC HOSPITAL,
Middletown, N. Y., Nov. 7, 1891.

CLARK BELL, ESQ., 57 Broadway, New York City, N. Y.:

*My Dear Sir:*—Yours of October 31st is at hand. My views upon the restraint question were expressed in the twentieth annual report of this institution. I send you a copy of our last report by this mail, and refer you to pages 79, 80, and 81.

While some good men are opposed to mechanical restraint under any circumstances, other men, who may be equally good, are in favor of restraining insane patients under certain circumstances. During the past summer I have conversed with some of the best alienists of Europe upon the subject of restraint, and while they expressed themselves as desirous of dispensing with its use as far as possible, they still believe that the use of restraint should be permitted in some cases. I believe, with Sir Arthur Mitchell, of the Lunacy Board of Scotland, that we should prohibit no means which might prove beneficial, but stand ready at all times to use everything in behalf of the insane that would be likely to benefit them.

Very truly yours,

SELDEN H. TALCOTT.

Dr. W. W. GODDING is one of the foremost American alienists. He is Vice-President of the Medico-Legal Society of New York, for Washington, D. C., at the head of the Government Hospital for the Insane, and has been President of the National Association of American Superintendents of Insane Asylums.

His reply is as follows:

GOVERNMENT HOSPITAL FOR THE INSANE,
Washington, D. C., Nov. 8, 1891.

*My Dear Sir:*—There is a great deal of nonsense in all this talk about the use of mechanical restraint in the treatment of insanity. I have elsewhere said what I have to offer on this topic, and will detain you with but a single sentence here. It is what good old Dr. Butler, of Hartford, Conn., after sixty years of conscientious labor among the insane, wrote down as the summing up of his life knowledge on the subject, viz: "The Individualized Treatment of the Insane." That is what we want—the care of the individual, in this as in any other sickness, as his need may appear—not the treatment of insanity in the concrete by any formula.

We may say in a general way that more cases of insanity are cured by judiciously supervized exercise in the open air than by confinement in bed by a Wyman bed-strap. This does not prove that in the individual case in question such confinement may not be necessary to save life, and the "enlightened public opinion" that would forbid its use under the direction of the physician having the case in charge—as much responsible for the recovery as if it were the delirium of typhoid fever—would savor of an enlightenment that even in Darkest Africa would pass for shadow.

You do not dictate to the physician skilled in medicine or surgery what remedial agents he shall employ in any other form of disease, and you cannot afford to do it in the case of the insane man. Fortunately the leading mental alienists, as I have known them, are not timid men, and are not likely to be deterred from the use of mechanical restraint, in cases where they deem it necessary, by any considerations of policy, as Dr. Diller's paper would seem to imply. If they resort to restraint or refrain from its use, it is from conviction that they are right. In this, as in all other critical situations, there is need for the medical man that he have an enlightened judgment and the courage of his convictions.

Very sincerely yours,

W. W. GODDING.

CLARK BELL, ESQ., Prest. Medico-Legal Society, No. 57 Broadway, New York.

Dr. JOHN CURWEN has been for years the Secretary of the Association of Medical Superintendents of American Institutions for the insane, and at the head of the State Hospital for the Insane, at Warren, Pa.

This is his reply:

STATE HOSPITAL FOR THE INSANE,
Warren, Pa., Nov. 7, 1891.

MR. CLARK BELL:

*Dear Sir:*—I believe that restraint of a mild kind (connected sleeves), is absolutely necessary in certain cases to prevent the patient doing injury to others or to themselves, and to prevent the disposition, so common, to exude themselves, particularly among women. It is in every way better

for the patient than to be held by the hands of attendants, which very often provokes a struggle and injury sometimes to the patient.

Chemical restraint is injurious in many ways.

Restraint, when carefully and properly used, is simply a means of protection.

Very respectfully yours,

JOHN CURWEN.

I append the letter of Dr. H. P. STEARNS, an American alienist of distinction, who, for many years, has been at the head of the Hartford Retreat for the Insane. Dr. Stearns has served as President of the American Association of Superintendents of Insane Asylums:

RETREAT FOR THE INSANE, Hartford, Conn., Nov. 14, 1891.

CLARK BELL, ESQ:

*My Dear Sir:*—Your letter, with the enclosed paper by Dr. Diller, was duly received. I have on several occasions expressed my views about "non-restraint," so called, and I have nothing new to say about it now. It is a thread-bare subject, and has been so for years. I suppose physicians will differ about the advisability of its universal practice, as they do on other points of treatment. A few Superintendents in this county will doubtless continue to use mechanical restraint, but I think the great majority use it only in very exceptional cases.

I am very truly yours,

H. P. STEARNS.

Dr. DEWEY is an alienist of eminence, who is at the head of the Illinois State Hospital for the Insane, at Kankakee, Ill.

His reply was as follows:

ILLINOIS EASTERN HOSPITAL FOR THE INSANE,
Kankakee, Nov. 20, 1791.

MR. CLARK BELL, 57 Broadway, New York:

*My Dear Sir:*—I regret that it has not been possible to reply earlier to your inquiry as to my views concerning mechanical restraint.

In regard to this matter would say that I have not formed any theories, but have continually sought to pursue the course in reference to each patient which seemed to be the best for the individual. The important thing it seems to me, is to keep intelligence and kindness in control. With this view, it has always been the practice in the institution of which I have charge to have no restraining apparatus which could be controlled by anybody but the physician, the apparatus being accessible only to the physician. Whenever it has been called for or thought necessary the rule has been that the physician in charge should visit the wards and personally investigate all the circumstances before any device for mechanical

restraint could be used. The result of following this course has been that restraint has rarely been called for, and still more rarely used. In referring to the records of the institution in the last six months in regard to this matter I find that in the female wards, with an average of 640 patients, outside of surgical restraint, which was employed for one patient who had a fracture of the humerus and three other patients having lesser surgical injuries, there have been no instances of mechanical restraint, except the application of mittens for destructiveness, for brief periods, in sixteen cases. The mittens are perhaps mechanical restraint of the fingers, and I report them as mechanical restraint, although the limbs and the movements are not restricted in any way by this device. There was also one case in which manual restraint was employed for six hours in a case of excessive violence.

In the male wards, with an average of over a thousand patients, there have been, from May to October, inclusive, four individuals to whom mechanical restraint was applied. One of these was a patient with an extensive eczematous eruption, which he persistently scratched, and increased the area of, whenever his hands were free. The diseased surface became so extensive and so deep that the assistant physician was authorized to apply restraining apparatus to the hands. The restraint was continued for a length of time, and the ulceration lessened considerably, but my impatience with the use of the appliance was so great that I ordered it discontinued. This being done, the patient grew steadily worse, and inflicted such injuries with his nails that considerable hemorrhages resulted, and finding his condition growing steadily worse, I felt obliged to acknowledge that I had made a mistake, and returned to the restraint, which he is still wearing when he cannot be watched by the attendants, and the eruption is now nearly healed again.

Of the other three individuals to whom mechanical restraint was applied, one was an extraordinarily persistent suicide, one was a patient whose violence was utterly uncontrollable, and one was a man with an altogether irresistible impulse to break glass whenever and wherever an opportunity offered.

I regret that the time at my disposal is not sufficient to go further into this matter.

Yours truly,
RICHARD DEWEY,
*Medical Superintendent.*

Dr. C. H. HUGHES is an alienist of international reputation. He has had asylum experience, and founded and now edits the *Alienist and Neurologist*, at St. Louis, Mo. He is a corresponding member of the Medico-Legal Society, and Vice-President of the International Medico-Legal Congress to be held in 1893. His reponse was as follows:

Marion-Sims College of Medicine, St. Louis,
Chair of Neurology and Psychiatry.

My Dear Clark Bell:

I should have answered your request for my views on the question of restraint, but for want of time and pressure of business.

The subject, however, has been discussed so often and so thoroughly by the most eminent and experienced alienists of the world, *pro* and *con*, that it is now almost threadbare.

Compared with the restraint system that prevailed before Pinel unshackled the lunatics and took them out of the dungeon cells of Bicetre, and Tuke and Chiarugi inaugurated the reform of the present century in England and Italy respectively, non-restraint has become the rule and prevalent idea in the management of the insane ; that is, the abolition of all needless mechanical restraint, all restraints hitherto resorted to for other than purely medical or therapeutical reasons, such as the quiet of the asylum, the comfort or convenience of the officers, attendants, etc. And restraint is now never employed for purposes of punishment or coersion in any well-regulated medically-governed modern institution for the care or treatment of the insane.

The question of restraint or non-restraint has been narrowed down to one of prescription for the psychical or physical welfare of the patient exclusively, and like any other prescription, the dosage of the remedy and the duration of its employment must depend on the absolute needs of the patient and judgment and skill of his physician, and like the tendency of the times in medical circles in regard to the use of medicine generally, the least amount of the remedy that will subserve the welfare of the patient meets with most favor among the most enlightened and advanced alienists.

Non-restraint, as I understand it, is a relative, not an absolute term, and restraint, either mechanical or physical, when employed, should be of the least irritating kind to the patient, and least barbarous, coercive, or violent in appearance, and only as a medical prescription.

Psychical tranquilization, psychical diversion or suppresion, are the objects in view in the successful management of the insane, and psychical satisfaction to the patient, so far as this may be accomplised without encouraging or fostering delusion or morbid impulse. The patient should be adroitly led, rather than forcibly coerced, in the direction of normal mental activity. An inherent dread of coercion and servitude exists in the minds of most persons, and this dread does not generally abandon the insane mind. Some lunatics are totally indifferent to the restraint which they need to guard them from filthy practice or dangerous impulses, as certain epileptics, imbeciles, and dements, and some should have restraint, especially at certain periods, as the homicidal, suicidal, etc., but not constantly, nor so much as has hitherto been thought a necessity of treatment. The general sentiment and practice of alienists is in the right direction, and I think the skilled judgment of the experienced psychiatrist may be trusted to indicate its proper use in those exceptional instances where it is imperatively required, and to decide upon the propriety or preference of mechanical, physical, or chemical restraint, or of seclusion solitary or of semi-solitary, or diverting exercise, such as a long walk, a physicially

fatiguing game or exercise of any kind, or labor, watched over by surveillance of experienced attendants.

Thus, you see, in the light of my own experience, the testimony of others, and all of the past and recent exhaustive discussions of this subject, I regard the subject as a medical question of suitable prescription in special instances, and not as a rigid rule of practice, to be undeviatingly conformed to, and I prefer the non-restraint plan generally to restraint generally. I never would entrust the deciding of the question of restraint or non-restraint to the judgment of any one but the physician.

Yours truly, C. H. HUGHES.

Dr. Lyon, of Bloomingdale Asylum, one of our oldest hospitals in the city of New York, replied as follows:

Bloomingdale Asylum, Boulevard and 117th Street,
New York, November 12, 1891.

Clark Bell, Esq., President Medico-Legal Society, Buckingham Hotel, New York City.

*My Dear Sir:*—This morning's mail brings me your printed slip on Mechanical Restraint, and your invitation to last evening's discussion of the subject.

I am fully convinced that mechanical restraint has as legitimate a place in the treatment of high excitement and exhausting mania as has any sedative medicine, properly administered, and I am satisfied that lives may occasionally be saved by husbanding the failing strength of intensely excited patients by mechanical appliances, which do not provoke the same combative resistance as manual restraint often does. The value of some form of mechanical restraint in the surgical cases which sometimes occur among very disturbed patients cannot be questioned.

I also believe that the principal is generally recognized that mechanical restraint should not be used simply to save the time and labor of the attendants, who should be constantly with, and as carefully attentive to, the patient restrained as though he were free, nor in any case should its use with a patient become habitual, but it should always be a matter of daily and hourly prescription by the physician in charge.

I may add that with between four hundred and fifty and five hundred patients a year under the care of this Institution, many of whom are in the most active stage of their disease, it is rarely found necessary to mechanically restrain anyone, but when the necessity arises, there is as little hesitation in using this remedial means as any other.

Yours very truly,

SAMUEL B. LYON,
*Medical Superintendent.*

Dr. Steeves, who is at the head of the Provincial Asylum, at St. Johns, New Brunswick, with a large experience, and a member of the Medico-Legal Society, in response to my inquiries, responded as follows:

PROVINCIAL LUNATIC ASYLUM, St. John, New Brunswick,
10th Nov., 1891.

DEAR MR. BELL:

I regret that by a misadventure your letter of the 31st ultimo was mislaid, and not answered early as its import and the circumstances demanded.

I read your remarks carefully and thoughtfully, and Dr. Theodore Diller's paper on Mechanical Restraint of the Insane with the same care. I was about to say that I had tried absolute non-restraint, but I confess I have not, and I might add that the confession does not cost me much blushing; nor do I suppose anyone has ever had the temerity to undertake so herculean and impossible a task as to manage exceptional cases of insanity by means that would admit of the term "entire non-restraint."

You ask this apparently pertinent question: "Should not the fact that such Superintendents," as several more or less distinguished gentlemen whom you name, "who have for years been able to carry on their work without resorting to mechanical restraint, be quite conclusive that it was not indispensably necessary? "Not indispensably necessary." I make bold to say that these words, in the connection in which they are used, are far from being ingenuous. When you are summoned to dinner, and take your seat by the well-furnished board, and perchance said a word of grace, you will see before you some things that are "not indispensably necessary," but which add greatly to your comfort, your health, and your well-being. Indeed, examples of this sort could be furnished without number. But if you ask me if these gentlemen whom you name prefer manual and chemical restraint to mechanical restraint, is it not conclusive that mechanical restraint should be abolished? Then I would reply simply that it is not conclusive by any manner of means.

Your second question is child-like, and man-like as well. "And should not those who have the insane in charge feel a common interest in reducing *this system of restraint to* its minimum, and correct acknowledged abuses." I go hand in hand with you in this crusade, and I will go further, for I will include with "this system of restraint"—meaning mechanical restraint, that of the non-restraint apostles, viz: that system of manual and chemical restraint practiced by them. I would say let us have no more rib breaking nor morphia stupor.

Referring to Dr. Diller's paper, I have to say that, excepting a few words, which I will presently name, I heartily endorse his views. And this endorsation is not from any superficial view, or partial study, or short experience. For this question has been to me an everyday burning one for upwards of sixteen years, and to whatever conclusions other gentlemen may have arrived, even after having brought to bear on the subject much intelligence, time, and experience, my opinions are so firmly based that they are not likely to be moved thereby.

If the arraying of distinguished names could be conclusive in settling the question of restraint or non-restraint, manual or mechanical, both sides would claim the victory.

The exception referred to in Dr. Diller's paper is this, that while I hold strong views against the prohibition of restraint in the care and management of the insane, qualify it by what adjective you will, and while I

believe the proposition bears absurdity upon the face of it, I am unwilling to impute motives, or cast reflections on others who from some cause hold opinions opposed to mine. Even in the case of a bonfire one could afford to look on without perturbation.

Faithfully yours,

J. T. STEEVES.

Dr. L. H. PRINCE, whom I had understood used restraint in his Hospital at Batavia, Illinois, responded as follows:

BATAVIA, ILL., Nov. 2, 1891.

CLARK BELL, ESQ., President Medico-Legal Society, New York.

*My Dear Sir:*—In reply to your circular letter of Oct. 31st, asking for an expression of my views on the subject of the use of mechanical restraint, I would respectfully offer the following:

I am a firm believer in the efficacy of a judicious and proper use of chemical, manual, and mechanical restraint in the treatment of insanity. Each has its special uses, and, in my judgment, no one of them can be entirely dispensed with properly in any hospital for the insane. There is no doubt that the use of mechanical restraint has been abused in many instances. Is this a sufficient reason for its abolition? Then for the same reason should be abolished the use of chemical and manual restraint. Cases (especially of acute agitative melancholia) have come under my observation where it has been deemed necessary, principally on account of the exhausted condition of the patient, that rest in the recumbent position be maintained. Holding the patient in bed by attendants (manual restraint), in nearly every case resulted in increasing the excitement and consequent exhaustion. In most of these cases, after the failure of this form of restraint, the patients were kept on the bed in a horizontal position by the use of mechanical appliances humanely applied, with the most satisfactory results. Can it be said by the advocates of non-restraint that none of their patients could possibly have been benefitted, or at any time made more comfortable, by the judicious use of mechanical restraint? Can it be positively asserted that no patient ever died for the want of it? Very many cases might be cited where the occasional judicious use of mechanical restraint might be of benefit to the patient. If patients can, beyond all possibility of doubt, be benefitted by the use of the muffs, self-mutilators, for example, who resent being held by others, must they be deprived of this means of treatment because of a principle involved? And what, pray, must we do with a patient who asks for this means of restraint?

Will the advocates of non-mechanical restraint tell us how they manage such cases as require some form of restraint, and all Superintendant's meet with these occasionally, where chemical restraint is insufficient or dangerous, and where manual restraint is harmful, by adding to the patient's excitement? How do they prevent injury to the violent patient who is held for hours by several strong attendants? Can they vouch for the gentleness of such attendants in all cases? Do they not meet with patients who resent being watched and followed, and finally overcome and pinned down by superior force?

A layman visiting the asylum wards is shocked at seeing a patient restrained by mitts or camisole. We are sorry for him, but as it is our duty to do our best for the patients, we cannot conscientiously deprive him of this means of treatment for the visitor's sake.

It is worthy of note that very many of the non-restraint advocates are non-medical men, and have never had experience in the treatment or management of the insane. If a physician cannot be trusted with appliances for mechanical restraint, how can he be trusted with the application of chemical or manual restraint? I am heartily in *favor* of minimizing all forms of restraint, and of perfecting the methods we have, trusting to the humanity and ability of the physician to judge of the necessities of each case. I am decidedly *opposed* to any rule or law that takes out of the hands of the physician that which may be of benefit to his patients. Absolute non-restraint in the hospital care of the insane does not exist. The report that "no restraint whatever has been used" is misleading and unscientific. If there is a sure way of treating our patients, *with advantage to them*, without the occasional use of mechanical appliances, we should be happy to learn of it. The majority of hospital physicians, having the interests and comfort of their patients at heart, have not yet learned to dispense entirely with its use.

The proper use of restraint of all kinds is what we should aim at, not its total abolition.

Faithfully yours,

L. H. PRINCE.

Being anxious to have the views of Dr. Prince upon what seemed to me to be the more important and practical questions involved in the controversy, I addressed him the following letter:

No. 57 Broadway, NEW YORK, Nov. 7, 1891.

DR. L H. PRINCE, Resident Physician Bellvue Place, Batavia, Ill.

*My Dear Sir:*—Many thanks for yours of the 2d instant just received.

I am greatly interested in your views. Your criticism as to the views of laymen, was preconceived by me and influenced my action in calling now so largely not only upon medical men, but upon those who had experience in the care of the insane in hospitals. The Earl of SHAFTESBURY, for half a century the Chairman of the English Lunacy Board, was a layman, and yet, perhaps, no man, not even CONOLLY, was so largely influential in abolishing the chains, manacles, and other forms of mechanical restraint in British asylums than was he, and I believe that no prominent alienist in Great Britain could now be found, who would regard his experience and judgment as at all inferior to any asylum physician upon this question.

I should be glad to have you give me your views as to the following propositions:

1. If such men as Dr. WM. ORANGE, as superintendent of Broadmoor, the great asylum for the insane called criminals in England; Dr. P. BRYCE, at the head of the State Hospital at Tuscaloosa, Alabama; Dr. ALICE BENNET, Superintendent of the largest State Hospital for women in the world, at

Norristown, Pa.; Dr. P. M. Wise, now at the head of the State Hospital for insane at Ogdensburgh, N. Y., for many at the largest hospital for the chronic insane, at Willard, N. Y.; his successor, Dr. Chas. W. Pilgrim, at the same institution; Dr. Wm. B. Fletcher, of the greatest asylum in Indiana, should unite in saying that they had not found it necessary during the years preceeding the statement to resort to mechanical restraint in the care and treatment of the insane by them in their hospitals, would not that bring you to the belief that it could be actually abolished, if superintendents were selected who had the faculty (if I may use that term) of successfully managing their insane patient without it?

2. Suppose Dr. Pilgrim, at the head of the great asylum at Willard, should say: "It is my belief, however, that the use of mechanical restraint is almost never necessary. At least such is my experience with a population of nearly twenty-one hundred cases, many of whom are acute. I have had several years' experience with both symptoms and I, have no hesitancy in saying that in my judgment an institution can be much more successfully managed without mechanical restraint than it can be with it."

Suppose that Dr. Wm. B. Fletcher should say: "In eight years constant association with the insane in a hospital with sixteen hundred patients half that time and in private practice with *only acute* insanity the other half, I have seen no case where I believe mechanical restraint necessary for the safety of the patient or advisable for treatment."

Suppose that Dr. Magnan, of St. Anne at Paris, should say, that in all his long experience in the care and treatment of the insane, he had never yet met a case where mechanical restraint was necessary.

If Dr. Henry Maudsley should say that he had never used a camisole in his life;

And scores of superintendents, who devote their lives to this humane work, should all unite in saying that mechanical restraint was in their opinion not necessary to be resorted to in the care of the insane;

Would not these considerations move you to make a serious effort on your own part to endeavor to dispense with it, and would not the fact that these men had succeeded in their trusts without it encourage you to hope that you might be able to successfully imitate them?

3. Is there no force in the statement made by superintendents that the excitement, tumult, and explosions incident to the use of mechanical restraint retard and interfere with recoveries, and are attended with serious danger of aggravating the mental disorder of the patient?

And would you not hail with delight any plan by which mechanical restraint could be eliminated from hospital treatment, provided in your opinion, its banishment would not injure the insane themselves?

Your views on this question, in addition to those I have received, would be of great interest to me in this important discussion.

Very faithfully yours, CLARK BELL.

In answer to my letter, Dr. Prince replied as follows:

Batavia, Ill., Nov. 13, 1891.

Clark Bell, Esq., 57 Broadway, New York.

*My Dear Sir:*—Your letter of Nov. 7th was duly received, and would

have been answered sooner, had not very serious illness in my family prevented.

In regard to the several propositions laid down by you I would say :

1. I have the greatest respect for the doctors mentioned, and will not deny that they did not find it *necessary*, for a certain period, to resort to the use of mechanical restraint in the care and treatment of their patients. This does not necessarily prove, however, that not a single patient under their care, who was restrained by manual force, might not have been better off, or made more comfortable, had mechanical restraint been used, it not having been tried in any of their cases; nor does it prove that hospitals managed by physicians who believe in the judicious use of mechanical restraint are not just as ably managed, nor that their patients are not just as well cared for. There is sometimes a distinction between what is thought *necessary* for successful management and what is *best for the patient* in each case.

2. I heartily concur with Dr. Pilgrim when he says that "*the use of mechanical restraint is almost never necessary*," which is equivalent to saying that mechanical restraint is *sometimes* necessary. How can he reconcile this first statement with the one that "an institution can be much more successfully managed without mechanical restraint than it can be with it"? This, it seems to me, is somewhat contradictory.

Where a superintendent entirely throws aside a certain method of treatment, and positively prohibits its future use, it would be very hard for him to make up his mind that in a very few cases that particular method might possibly have been a little better than the one adopted.

Dr Magnan, no doubt, was sincere in saying that in his long experience he had never met a case where mechanical restraint was necessary. He is indeed fortunate if in his experience he is sure he has never had a case that could not have been improved or made more comfortable by the use at times of mechanical restraint.

Dr. Maudsley surely could not have learned by personal experience that the use of the camisole was improper in every case, if he never used one.

I never resort to the use of mechanical restraint except in a few cases where I feel convinced that nothing else is quite so good. I know from personal experience that a few cases, at least, have been benefitted greatly, and possibly some lives saved, by substituting mechanical for manual restraint, and I have no reason to believe that such cases may not again occur in my practice. With this knowledge would I be justified in throwing away or burning up all of the hospital restraining apparatus and ever after refusing to use it?

It may be that in a year's time and amongst a large number of patients the use of mechanical restraint might be indicated in but a single case. Yet, in that single case, I would dislike very much being prevented by law or by a hospital rule from using that method of treatment that would seem to me to be best for the patient.

3. It is certainly true that there is danger, in many cases, of mechanical restraint doing harm; the same danger is to be considered in the use of any form of restraint. This is no reason why it should be entirely discarded. Harm may result from the improper and injudicious use of many of the

remedial measures a physician may use. We hear very little, however, about taking from the physician the right to use for his patient such remedies as opium, alcohol, &c.

I would most certainly hail with delight any means or plan that would eliminate from hospital treatment the *necessity* not only for mechanical restraint, but chemical and manual restraint as well, provided, however, that in banishing any one of them something better could be provided.

If I knew positively that in the next twenty years I was to have but one patient who in my opinion could be benefitted more by the use of a camisole or of bed straps than in any other way, I should like to have these appliances always on hand for that patient.

You ask me if I might not be moved to make a serious effort to endeavor to dispense with mechanical restraint. I would say that in each case where mechanical restraint has finally been resorted to by me all other means *have* been first tried. In nearly every case where restraint has been indicated, I have personally conducted and assisted in the use of manual restraint, and the use of mechanical appliances has only been resorted to after the failure of the other means. In the majority of cases where mechanical restraint has finally been resorted to as being the best thing for the patient, it has proved its usefulness. We certainly have no other object in view than the good of our patients when we use mechanical restraint, *after trying in each case all other means.* Manual restraint has sometimes failed of its object in my hands. Is it possible that those who report never finding it necessary to use mechanical restraint have never experienced defeat in the treatment by other means? Unless each case has been made comfortable, and no evil has ever come of depending upon manual restraint, in their hands, how can the statement that mechanical restraint was never indicated hold good, when it was not even tried in a single instance?

I repeat that without any doubt I have in a number of instances succeeded with mechanical restraint, after faithfully trying and failing with other forms.

It is now several months since mechanical restraint has been used by me. The patient was an old lady, reduced almost to a skeleton. Her case was one of agitative melancholia; there was constant restlessness, the patient never stopping her rapid walk to and fro, crying and moaning, striking her head against the door and walls, *fearful of being touched by any one.* There was persistent refusal of nourishment. Manual restraint was tried for a time. The patient was made worse by it, and we finally gave it up for the following reasons: When held in any way by one or more attendants, the patient would become frantic, screaming and resisting without rest. Her flesh bruised very easily, and very little pressure was required to darkly color the skin. Manual restraint was persisted in, every conceivable form of it being tried, but the patient grew more excitable under it. Finally a folded sheet was passed about the body, and the ends fastened with safety pins under the bed in such manner as to prevent the patient from rolling out of bed or assuming the sitting posture. The ankles, after being well padded, were fastened, by means of leather anklets and a roller bandage, in such a way as to permit of limited movement of the legs. The arms were

controlled in the same way. The mattress was large enough so as to project over the sides of the bed, the center being a little lower than the sides. The patient was thus completely protected from danger of bruising. The room was darkened, the patient given nourishment often without great trouble, and the body was frequently bathed with alcohol. It was not long before the patient's excitement began to subside, and she finally made a good recovery. I feel confident that had not mechanical restraint been used, the patient would have died of exhaustion. The record for non-mechanical restraint would possibly have been better, but how about the probable final result? This is no fancy case. It is only one of several similar experiences I have had in this particular class of cases. Would you, my dear sir, advise me to refrain in the future from the treatment described above, the conditions being the same?

I could cite cases differing in form of insanity, where I have felt convinced, after trying all other means known to me, that to deprive the patient of temporary restraint by muffs, or camisole, would be nothing short of inhumanity. It grieves me that able men condemn a method because it has been abused, and assert that the adherence by a physician to the method condemned is a proof of his incapacity.

Very sincerely yours,

L. H. PRINCE.

Dr. G. R. TROWBRIDGE, Assistant Physician at the State Hospital for Insane, at Danville, Pa., so long presided over by Dr. Schultz, a member of this Society, whom I addressed, and who had published a monograph favoring restraint, replied as follows:

THE STATE HOSPITAL FOR THE INSANE,
Danville, Pa., Nov. 6, 1891.

PRESIDENT OF THE MEDICO-LEGAL SOCIETY:

*Dear Sir:*—Many thanks for your kind invitation to express my views on the subject of "Mechanical Restraint Among the Insane."

The two sides of this question may be looked upon with approval or disapproval, and certainly present ample scope for an extended argument. The idea of a mechanical restraint might, to some unacquainted with the needs of the case, seem a rather barbarous custom, but how those connected with institutions for the care and treatment of the insane can advocate an absolute non-restraint is beyond my imagination, and I am inclined to consider the idea is advanced more in the spirit of the politician than in that of the true alienist.

The point of the matter is right here. As long as insanity assumes the violent forms it does in so many of our cases, just so long will it be necessary to employ some form of restraint, and the question arises, "Shall it be mechanical, manual, or chemical?"

The insane asylum is in itself a form of restraint; its inmates are a class of irresponsible beings, often controlled by strange delusions, which in turn give rise to violent and dangerous acts, and, consequently, society demands,

for their own and the good of the individual, that the insane should be kept under restraint.

That there is often necessity for an additional restraint among these people, I am fully convinced, and, as I have said, the question arises, "What shall we use?" For my own part, I am heartily in favor of "mechanical restraint," carefully and judiciously employed, and I do not think we have reached a time when it can be totally discarded.

I grant that there is abuse of "mechanical restraint" in many of our institutions, but in these cases it is not the fault of the restraint, but of a careless medical officer.

We all know that some hospitals claim an "absolute non-restraint" system. Is this strictly speaking the truth, or do they retire safely behind a bottle of morphine or hyoscine and a hypodermic syringe, and from its friendly protection make their stand for the abolition of mechanical restraint? I know such to be the case in one of our so-called non-restraint concerns, and I am inclined to think it is the case in a large number of them. The substitutes for mechanical restraint are manual or chemical, and I fail to see where the advance has been made. I cannot imagine anything more harmful and annoying to patients than to be continually poking a hypodermic syringe into them for the purpose of restraining them. This instrument has its place in the hands of a conscientious alienist, but I am of the opinion that in our institutions, where there is a system of non-restraint, the hypodermic syringe should be taken from the hands of the medical officers, for in these cases its authorized use leads to its abuse.

As for manual restraint, is it any better than chemical? I cannot imagine anything more disgusting than to have three or four, or even a half-dozen, attendants hanging to an excited patient with the idea of controlling him. It is exasperating to the patient and attendants, and in the majority of cases will result in injury to one or the other. I have tried it, and have laid it aside as an exploded idea.

I have had cases under my charge which I know have been greatly aided in their recovery by the use of a careful restraint, and as long as I can see good results arise from its use, I shall decline most emphatically to vote it a relic of barbarism.

As medical officers in State hospitals for the insane, we are bound to care for these unfortunates in the safest manner, and if, through the desire of making a record of a non-restraint, we should allow a patient to take his life, the one having such a catastrophe should be made a subject for justice to deal with.

One more thing before I close. I should like to inquire from these alleged and self-constituted "reformers" how they *do* manage certain cases which all hospitals for the insane contain, if they do not use some form of restraint?

Let us consider the matter of mechanical restraint carefully before we discard it.

Yours very truly,

G. R. TROWBRIDGE.

I also send you a reprint of an article I wrote on this subject some time ago. G. R. T.

The monograph of Dr. Trowbridge is interesting, but too lengthy for this discussion. I make, however, a few extracts from it, which are of importance, in my opinion.

The monograph was read before the Montour County Medical Society, of Pennsylvania, and published in the Buffalo *Medical and Surgical Journal* March, 1891.

Dr. Trowbridge gives the following definition of "Restraint," not using the term "Mechanical Restraint:"

By the word "restraint," as it is used by the alienist of to-day, I understand *the depriving of voluntary action of an individual, either for his own or the safety of others, or for his mental, moral, and physical good, the individual being irresponsible for his conduct.*

Dr. Trowbridge quotes Hon. William P. Letchworth, in his work, "Insane in Foreign Countries," as to the methods employed in some foreign asylums half a century ago. I quote the statements:

The methods of restraint in common use included iron hand-cuffs connected with chains to a leather waist-belt; leathern hobbles locked around the ankles, which permitted the patient to shuffle his feet, but impeded his movements so that he could not walk; iron hand-cuffs with chains, which passed through fastening locks at the sides of heavy "tub bedsteads," filled with straw, boots made of ticking, with rings and chains which passed through fastening locks at the bottom of the bedsteads.

I further quote, from the same monograph, Mr. Letchworth's report as to Gheel, in Belgium:

At Gheel, Dr. Peteers has the following methods: (1.) A broad padded belt or band, five inches wide, for locking around the upper part of the arms. In this belt is an iron loop, through which passes a strap for securing the patient to the side of the bed. (2.) Two padded leather bands, three inches broad, connected in the center by a link two inches long. These are designed for the ankles of the patient. To each is attached a loop of iron, through which a strap is passed and fastened to either side of the bedstead. (3.) Two padded soft leather wristbands, three inches wide, separating the wrists about eight inches. Dr. Peteers said these were scarcely ever used. (4.) A broad leather belt encircling the body, with two leather pockets in front for the hands, which are secured in their position by wristlet straps. Extending from this belt across the shoulders, suspender fashion, are straps which retain in position and relieve the weight of the belt, which locks at the back.

Dr. Trowbridge quotes the views of Dr. Daniel Nicholson, a member of the Medico-Legal Society, and now superin-

tendent at Broadmoor, as published in *Journal of Mental Science*, July, 1890, as follows:

Dr. Nicholson,* of the Broadmoor Criminal Asylum, England, says:

The question as to the employment in lunatic asylums of what is known as "mechanical restraint," occupied a considerable amount of public attention last year. The legitimate or justifiable use of mechanical restraint is one thing, the authorized abuse of it another. The sanction of modern times in this country is clearly against the use of mechanical restraint; and very properly so in recollection of the extent to which it was carried in days gone by. The existing practice is, as a matter of fact, in accordance with this sanction; and the exceptions when this form of restraint is used for other than surgical reasons, are sufficiently few to afford the best proof of the rule. Besides sanction and practice, an element of sentiment has crept into the matter which would fain make it of the nature of a crime to use mechanical restraint at all, unless, perhaps, in surgical cases.

Mechanical restraint is practically unknown at Broadmoor. It was, I believe, used on a few occasions in the early days, but for over twenty years it has been found possible to do without it. The comparatively numerous staff of attendants at this asylum enables exceptional strength to be brought to bear when occasion requires it; but my own feeling in the matter is that in a case of continuous and long-sustained maniacal violence, with an activity avowedly and determinedly homicidal, it is possible to carry the non-restraint principle (so-called) too far and at too great a cost. Few people who are not engaged in it are able to estimate the wear and tear of nerve and heart which a tussle with a desperate lunatic of this sort means to the attendants, apart from the risk of positive injury either to the patients or warders. And when this struggle has not only to be anticipated, but to be engaged in, several times a day for a lengthened period, the justifiability and humanity of simple, effective and safe mechanical restraint become apparent.

If ever it should be my lot to be a lunatic, such as the one whose treatment is here in question, I hope my good friend, the Superintendent, who has me in charge, will not be too squeamish about recent traditional usage, but will see that I am checked by the minimum but necessary amount of restraint to insure my own safety and that of others. On the one hand, I do not wish to think that under any circumstances I should be the means of inflicting injury upon my attendants; on the other hand, I would infinitely prefer mechanical restraint to the long continued manipulations, however skilful and friendly, of four or more attendants heaped upon my prostrate form. . . . . The evil to be feared with regard to mechanical restraint is lest its legitimate use should lead to its authorized abuse. This could never happen if, in every case, the physicians themselves were to order it to be used, and that only after a careful and complete personal

*Journal of Mental Science*, July, 1890.

investigation. When the restraint is applied by underlings and its use afterward sanctioned by the responsible officers, we have the authorized abuse which is altogether wrong and reprehensible.

And Dr. Trowbridge closes his paper by the following statement:

In the report of the Committee on Lunacy in this State (Pa.) for 1889, the Secretary mentions the fact that there had been "no mechanical restraint" used in the female department of the Norristown State Hospital for the Insane for "the past year," commends the fact, and asks "Why not the same in other hospitals?"

This inquiry is certainly a very strange one. Lunatics differ as well as sane people, and have to be treated accordingly. The female department of Norristown is to be congratulated on having such an easy class of the insane to deal with.

This matter of "mechanical restraint" should be carefully considered before it is voted a relic of barbarism.

The following reply was received from W. THORNTON PARKER, M. D., one of the Medical Examiners of Rhode Island:

MANCHESTER-BY-THE-SEA, MASS., Nov. 3, '91.

DEAR CLARK BELL:

Your favor is received. I have read Dr. Diller's paper with great interest, and it seems to me very fairly stated, but the subject cannot be discussed so hurriedly. Too much is at stake. Your work is of the greatest importance, and the wisdom of your great Society will, even when united, find the "art long, and the time fleeting." Without cant, *much* of successful government *can* be carried on with *kindness*. I have had considerable experience myself, and I am fully convinced of this, even in the care of homicidal and suicidal cases. To take the opposite position is to encourage all that is brutal in our attendants, and human nature is at best "of the earth, earthy." We aim at the accomplishment of the divine command, "Be *merciful*," and it is not wise or brave to say "*we cannot*." As I said before, you are engaged in a great work, and you must not come down. It will not be settled in the near future, but you know great progress *has been* made already, and *is* being made, and more can be made. I am deeply interested. There is plenty of cowardly bullying among Superintendents, assistants, and nurses. It differs in its degree, and in its methods, but the *evil*, the *sore*, is still there, still festering, still unhealed. Manliness, love of fair play, divine love, which is the essence of *true* manhood, steps forward between prisoner and gaoler, and says to-day, "*Thus* far, but *no* farther."

Faithfully yours,

W. THORNTON PARKER.

Dr. HENRY M. HURD was for eleven years Superintendent of the Eastern Michigan Asylum, at Pontiac, Mich. Two years since he became Superintendent of the Johns Hopkins Hospital, and Professor of Psychiatry, at the Johns Hopkins University.

I give his reply:

THE JOHNS HOPKINS HOSPITAL, Baltimore, Dec. 1, 1891.

TO THE EDITOR OF THE MEDICO-LEGAL JOURNAL:

*Dear Sir:*—The value of the principle of non-restraint is too obvious to require any argument. Mechanical restraint never has been resorted to in any asylum without sooner or later begetting an abuse of it. Patients are more comfortable without restraint, and get well more rapidly when it is not resorted to, either as a rule or an occasional practice. The relations between patients and attendants, and between patients and medical officers, are more harmonious when non-restraint is the rule. I can readily imagine a case which might be more conveniently cared for by using restraining apparatus, but I do not regard such mechanical restraint as absolutely essential to proper care, nor as helpful even to such a case in the long-run.

In matters of asylum policy, however, the largest liberty should be accorded to every officer. He who believes in non-restraint should not have his motives or his practice impugned; nor, on the other hand, should the believer in "judicious restraint" be placed beyond the pale of charity. I have tried both, and I believe non-restraint to be preferable.

Very respectfully,

HENRY M. HURD.

57 Broadway, New York City.

Dr. MONCURE has been for some years at the head of the Eastern Lunatic Asylum of Virginia, at Williamsburgh. He is a member of the Medico-Legal Society, and a careful student of Mental Medicine. His letter is as follows:

EASTERN LUNATIC ASYLUM, Williamsburg, Va., Nov. 11, 1891.

*Dear Sir:*—I have read the article written by Dr. Theodore Diller dated Sept. 28, 1891, and though an advocate for non-restraint as the guiding rule in insane asylums, I must say that I cordially agree with him. There are cases where judicious restraint inflicts less injury and is far more humane than either chemical or manual restraint. I have only had three cases under restraint for the last six years, with an average of more than four hundred patients. These are put under restraint only to prevent injury to themselves, which is sure to result from any other kind of

treatment. I think that the less mechanical restraint, except in these rare cases, the better for the patient.

Respectfully,

JAS. D. MONCURE,
*Sup't E. D. Asylum.*

Dr. WILLIAM ORANGE, for years Superintendent of the great English asylum for insane called criminals, at Broadmoor, England, and who, since his retirement from that position, has been one of the alienists selected by the Crown to decide on the insanity of homicides, and an active member of the Medico-Legal Society, sends the following promise of a more extended letter upon this subject:

12 LEXHAM GARDENS, W. LONDON, October 28, 1891.

DEAR MR. BELL:

I write a line to say that I am away from London for a few days, but I shall be at home again by the end of the week, when I will write to you again upon the subject of your letter, and the enclosure of Dr. Diller.

The statement with which Dr. Diller commences his article—to the effect that persons who advocate non-restraint do so because it is *politic*, rather than because it is *right* so to do—would not, I fear, apply to England, just at present. On the contrary, the *politic* thing, just now, in England, is to defend the use of mechanical restraint. It almost looks as if the tendency of the pendulum to swing from one extreme to another were the fundamental principle of human action.

I dare say you may have seen the report of a discussion by the English Medico-Psychiatry Association in November, 1888, reported in the *Journal of Mental Science* for January, 1889.

Hoping to write to you again at the end of the week, believe me,

Yours very truly,

W. ORANGE.

CLARK BELL, ESQ., 57 Broadway, New York.

From the foregoing replies, it seemed that the question should be regarded and discussed from a more practical standpoint, and I addressed the following letter to other Superintendents, from some of whom I received responses:

OFFICE OF THE PRESIDENT OF THE MEDICO-LEGAL SOCIETY,
No. 57 Broadway, New York, December, 1891.

*Dear Sir:*—The enclosed paper of Dr. Diller was read at the November meeting of the Society, and replies from Drs. P. Bryce, P. M. Wise, Henry Maudsley, of London, D. Hack Tuke, Charles W. Pilgrim, G. Alder Blumer, Carlos F. MacDonald, John B. Chapin, W. W. Godding, W. B.

Fletcher, L. A. Tourtellot, G. R. Trowbridge, James Olmstead, H. P. Stearns, of Connecticut, Gershom H. Hill, of Iowa, Richard Dewey, of Kankakee, Selden H. Talcott, of New York, and many were received from others, including Prince, of Batavia, Ill.; Curwen, of Pennsylvania; Wallace, of Texas; Parsons, of New York; Parker, of Rhode Island; Burr, of Pontiac, Mich.; Steeves, of New Brunswick; Moncure, of West Virginia; Hughes, of St. Louis, and many others.

I was instructed by the Society to publish these replies in the JOURNAL, and shall be glad to include yours. While in New York mechanical restraint is not used, and in most of the higher class of asylums elsewhere, it is a fact disclosed by these discussions that it is practiced still in quite a large number of American asylums, and that an effort is made, endorsed by men of position, to justify its use, and to inaugurate a doctrine that it would be safe to take up and justify mechanical restraint. *Judicious restraint* seems to be the watch word of a proposed practice, based on discretion of the Superintendents, which would depend upon the temperment of each and the characteristics and opinions of each, and in many cases go back to the barbarities of the recent past.

I wish your views on this question, and especially upon the following propositions:

1. If Superintendents like Bryce, Wise, Fletcher, Blumer, Pilgrim, Alice Bennett, J. C. Shaw, and many others in American asylums, and Drs. William Orange, Daniel Nicholson, Dr. Needham, and the great body of Superintendents of British asylums for the insane, can successfully conduct their hospitals for the insane without recourse to mechanical restraints, is it not time for all to unite in the statement that it cannot be longer regarded as *necessary*, much less indispensably so?

2. Should it not be the duty of Superintendents of asylums to inform themselves of the methods by which the principles of "non-restraint" have been successfully accomplished by these Superintendants who have succeeded in dispensing with restraint altogether?

3. Should not all agree, in view of the public feeling against its use, the well-known tendency to its abuse where used, and the strong tendency and bent towards its improper use when left to the individual discretion of Superintendents, many of whom are without any experience in the care of the insane without it, that the time has arrived when Superintendents should make an earnest endeavor to see, by experimental trial, and by learning of those who have succeeded, to see if it cannot be dispensed with, or reduced to its minimum limits?

An early reply will be regarded as a favor.

Very faithfully yours,

CLARK BELL.

[TO BE CONTINUED.]

# THE HISTORY AND PRESENT POSITION OF THE DOCTRINE OF MORAL INSANITY.

BY "PERCUTE ITERUM."

My object in this paper is to account for the inception, the growth, and the vitality of legal and medical belief in the existence of that form of mental disease known as *Moral Insanity*, which consists in a perversion of the moral, without any apparent lesion of the intellectual, faculties. Holding, as I emphatically do, that the speculations of Pinel and Esquirol, on whose rod and staff all subsequent advocates for the recognition of moral insanity lean very heavily, contain only a meagre residuum of fact, I have yet never been able to accept that solution of the problem, "How does this theory survive?" which has for its chief factors a hasty imputation of partisanship, and an elaboration of the omnipotence of a retainer. The difficulty which opponents of *manie sans délire* have to face is not conquered by underrating it. We say that the teaching of Pinel is immoral; that it is contrary to observation and common sense; that it restores the Spartan ideal, according to which crime ceased to be criminal when covered successfully under the cloak, in this case of habit; and we are very clear that the dogma of moral insanity, when explained by a competent controversialist, offers an absolute *apologia* for every murder that has been committed since the days of Cain.*

*A writer in the *American Journal of Insanity*, Vol. 14, p. 3,117, points out that the plea of moral insanity might have been set up with far greater plausibility in the case of Cain than in any murder in recent times. Cain was well-to-do in the world. Abel was unoffending, and not responsible

Yet this theory, whose absurdity is so apparent to us, was promulgated by no professional witness, but by an acute and honourable physician, who was daily brought into intimate contact with every type of mental disease.* It was developed by Marc and Esquirol, whose professional position placed them far above the vulgar temptation to prostitute their consciences for gold; and it is strenously maintained at this day by men whom we know and honour, and who will be remembered when we and our ephemeral efforts have been forgotten. Finally, the heresy of Pinel, if such it be, has made inroads upon the serried mass of legal opinion. Sir James Stephen is almost persuaded, and at least one of his colleagues on the English Bench is believed to cherish secret doubts.† In the face of such considerations as these, the accredited legal explanation of the persistent vitality of moral insanity is clearly insufficient. But it is fair to add that the difficulty of the problem which we have to solve may easily be exaggerated. The legal opponents of the doctrine of *manie sans délire* find themselves in good company. Kant and Sir William Hamilton, among the metaphysicians,

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for the fact that God preferred his offering to Cain's. He gave no provocation. Cain must have brooded over some fancied injury till it became real in his eyes. He was the victim of morbid jealousy, fostered into an ungovernable impulse. Moreover, he had no other associates besides his father and mother; it was the first murder, too, and he cannot have contemplated its heinousness or its penalty. Yet he was adjudged by the most sufficient and perfect of all authority, for the first violence ever committed, to be a guilty man, and punished accordingly.

*Pinel's authority as a witness is discussed hereafter. At present I am simply putting the case of the advocates of moral insanity.

†Mr. Justice Butt, in a recent case, I think Walford *v.* Walford, which is not reported. Something very like moral insanity was set up as a defence to a divorce suit on the ground of adultery. The rules in MacNaghten's case were of course produced as the authoritative test of responsibility for delict as for crime in mental disease, whereupon Mr. Justice Butt observed: "I have my own opinion about those rules, but I will not express it."

Bucknill,* Sir Benjamin Brodie, Mayo, and Taylor, in the medical profession, either repudiate the theory absolutely or accept it with qualifications from which its first apologists would have turned away with scorn. Indeed, the radical character of the new medico-legal departure from the conclusions of the French alienists has hardly been appreciated by the so-called advocates of moral insanity themselves, and has not been insisted upon by their critics with the emphasis which it deserves. But I purpose to press this argument upon the notice of my readers at a later stage in the present thesis.

Again, it would be interesting to determine how far the all but universal recognition of moral insanity as an exculpatory plea upon the continent of Europe has been due to the want of just such an approximate definition of punishable insanity as the much-abused *rules in MacNaghten's case* gave to English lawyers. "*Il n'y a ni crime ni delit*," said the Code Penal, Art. 64, "*lorsque le prevenu etait en état de demence au moment de l'action, ou lorsqu'il a été entrainé par une force à laquelle il n'a pu resister. Une force à laquelle il n'a pu résister!* Under the convenient vagueness of these sounding terms, there was absolutely no type of mental or moral aberration which might not be pressed, and, by a skilful advocate, successfully pressed, into the excusing sympathies of a jury. The counsel who did not avail himself of the latitude with which the clause under consideration was drawn, to set up the defense of moral insanity, whenever all other pleas seemed hopeless, would have been as wanting in his duty to his client as an English barrister who neglected to plead the Statute of Frauds for the purpose of defeating an unrighteous claim. When the defence of "irresistible impulse" has crept into English courts of

*See a series of papers upon the legal responsibility of the insane in the *Lancet* of 1875–'76.

law, in defiance of *the rules in MacNaghten's case*, it was not to be expected that a plea, so prevailing, would fail to enter in at the door opened for it by the Penal Code; and we find, accordingly, in the *causes celèbres* of France, *irrésistibe bésoin*,* or one of its numerous synonyms, incessantly appearing, and acting as the scapegoat for sinners, who, under the law delivered by the English judges to the House of Lords, would have been left to bear their own burdens. Finally, there can be little doubt that acquittals on the ground of moral insanity have in great measure been due to the scruples†, conscientious and sentimental, of jurymen, against returning verdicts which would entail capital punishment upon their fellow creatures. The case of Martha Garrity (*Am. Jour. of Ins.*, Vol. 8, p. 293), is an illustration of what I mean. The prisoner, who was a servant in a public house in Newark, N. J., was seduced under promise of marriage. Her seducer married another girl, and thereupon Garrity took an early opportunity of meeting him and stabbing him with a carving knife. She was tried for the murder, and was found by the jury "Not guilty, on the ground of insanity," after an absence of sixty-two hours. The question then arose whether Garrity ought to be sent to a lunatic asylum, and a medical commission was appointed to inquire into her state of mind. They reported that they found then existing no evidence of mental disease. The spectre of the scaffold had disappeared!

*See Renaudin, *Archives Cliniques*, 1862, "Sophie, at the age of 15, felt an *imperious necessity* to become a prostitute." *Besoin and entrainement* duly figure in the tale.

†"What would become of us, who manage the insane," says Belloc (*Ann. Medico-Psych.*, 1861, p. 422), "if these doctrines of irresponsibility prevailed? Is not our whole influence, our whole conduct, based on the capacity of the insane to understand the counsel we give them, the rebukes we address to them, and to behave themselves accordingly? In the face of these facts, what becomes of the doctrine of absolute irresponsibility which we maintain before the tribunals? I can explain this flagrant inconsistency only by the spectre of the guillotine, which the Public Prosecutor never fails to dangle before our eyes."

Having thus endeavored to appraise the true character and difficulty of the problem under consideration, I proceed now to search for its solution in the history of its development, and the theses which in this connection I shall maintain, and, if possible, establish, are these:

1. Moral insanity was a reactionary theory.

2. The causes of its prevalence are historical and accidental.

3. The moral insanity of the modern alienist is quite different from that of Pinel, Prichard, and Ray.

* * * * * * * * * *

1. *Fame, vinculis, plagis coercendus est,* said honest Celsus,* speaking of the lunatic upon whom conciliation had been tried in vain. "Pour être utile aux aliénès," was the motto of M. Esquirol, "il faut les aimer beaucoup, et savoir se dévouer pour eux." It is here intended to bridge over the dark gulf of feeling, as well as of time, which lies between these two utterances, and to trace the history of the medical jurisprudence of insanity, from its commencement, or at least from the period when an attempt was made to analyze, and to find a logical justification for, that strange "compound of pharmacy, superstition, and flagellation"† which has in every primitive society been regarded as the proper treatment for the victims of mental disease.

The historic controversy between law and medicine as to the nature of insanity, and the responsibility of the insane, was preceded by a period of horrible unanimity, which critics of "the wild beast theory" and its successors too readily forget. The part which the legal profession played in the drama of demoniacal possession was discreditable enough in all conscience, but it has received ample justice at the hands of their critics, and I do not propose to dwell upon

*De tribus insaniæ generibus, Lib. iii., c. 18.

†Dr. Hack Tuke's "History of the Insane in the British Isles."

it principally, now. Rather let us see what reproof, correction, and instruction alike in righteousness and in science came to the medieval lawyers from the lips of the professional ancestors of Prichard and Ray. Under the influence of the false metaphysics which, insisting unduly upon the immateriality of mind, taught that the body was the prison house of the soul, the physician believed that insanity, being a mental disease alone, was incapable of being studied through pathology, and could neither be cured nor relieved by physical remedies.* Possibly, too, the theology, equally false and equally dominant, which asserted that lunacy was in some special sense the visitation of God upon heresy or sin, added apathy to his scepticism. The disease, therefore, which according to science it was impossible, according to religion it would have been impious, to cure. Under the shadow of these quasi-philosophic theories, there clustered a crowd of baser motives, and more ignorant beliefs, active though not avowed, the Moloch-like propensity to inflict and to witness suffering, the lust of gain, the tyranny of power, the schoolman's indifference to the practical results of his theory, the eagerness of the vulgar, the superstitious or the criminal, to supply a victim to the imaginary displeasure of God or the outraged justice of man. The prevailing conception as to the nature of insanity brought forth, in its full enormity, the system of *asylum administration*, which disgraced by its existence the latter half of the 18th century. I propose to write in some measure the biography of this monstrous birth, from the original records in which its character is preserved.

(*a.*) *There was a total absence of any classification of the insane in the medieval and, indeed, in the* 18*th century*

*Cp. *Law Quarterly Review*, July, 1887. Moral Mania, by A. Wood Renton; also W. A. F. Brown, What Asylums Were, Are, and Ought to Be. (1837.)

*asylums.* "Le classement des malades," says M. Lefebvre-Duruflé,* "est une chose importante, parceque ce classement domine tout dans au établissement d'aliénés, le traitement, l'administration du terrain, le genre et la distribution des bâtiments." How far was this principle understood and acted upon? Take the Bicêtre in 1801,† "Bicêtre contenait des valides, des aveugles, des paralytiques, des individus atteints de maladies syphilitiques, et scrofuleuses, des incurables, des fous, et des enfants. Les sexes, les ages, les infirmités y étaient confordus." The same evil characteristic was noted by M. de la Rochefoucauld-Liancourt in 1789.‡ I will give two extracts from his report: "La maison de Bicêtre renferme des pauvres recues gratuitement, des pauvres payant pensions, des hommes, des enfants épileptiques, écrouelleux, paralytiques, des insensés, des hommes renfermes par ordre du Roi,—des enfans arrêtés par ordre de la police, ou condamnés pour vol ou autre délit, des enfans sans vice et sans maladies et admis gratuitement enfin des hommes et des femmes traités du mal vénérien. Ainsi cette maison est ā la fois Hospice, Hôtel Dieu, Pensionnat, Hôpital, Maison de force et de correction!" (P. 37.) Again: "Tous les genres de folie sont confondus; les folles enchainés—sout rêunies avec les folles tranquilles; celles qui sont dans les accĕs de rage sont sous les yeux de celles qui sont dans le calme; la spectacle de contorsion, de fureur, les cris, les hurlemens perpêtuels ôtent tous les moyens de repos, à celles qui en auroient besoin, et rend les accès de cette horrible maladie, plus fréquens, plus vifs, plus cruels, et plus incurables." (P. 77.) It is hardly necessary to

*Rapporte présenté au counseil général—au non de la Commission des Aliénés, 1839, p. 15.

†Coupid'oeil historique et médical sur Bicêtre—par Dr. A. Millet, Paris, 1842, p. 11.

‡Rapport fait au nom du comite de mendicité des visites faites dans divers Hôpitaux, hospices, et maisons de charite de Paris.

labour the proof further; but abundant evidence is not wanting. In *L'Hotel Dieu*, persons suffering from hydrophobia were placed in the company of the insane.* In the hospices 'hôpitaux généraux), of 33 towns in France, lunatics were admitted along with children, prostitutes, persons suffering from syphilis and epilepsy.† In the *dépôts de mendicite* in 12 towns, the insane mixed freely with mendicants and vagabonds. In Bordeaux, Toulouse, Caen, Amiens, Poictiers, etc., they were imprisoned with criminals, ‡and the general system of asylum administration then prevailing in France is not inaccurately described by a sentence in a report submitted by Colombier to Louis XVI. in 1785, "Ces malades étaient renfermés (dans des maisons de force), pêle et mêle, les fous tranquilles confondus avec les furieux enchainés."§ The record of England, in this matter, is equally discreditable. In 1807, before the revival of Christianity—as one may almost call it—in the regime of our public and private asylums—lunatics were confined in common prisons, workhouses, and poorhouses. No attempt was made to classify the insane; indeed, the existence of different types of insanity received no practical recognition; and the story is told, not upon mean authority,‖ of a patient, afflicted with *satyriasis*, who had access, without let or hindrance, to the female wards. I assume, therefore, that the first count in my indictment has been amply proved.

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*Tenon, Memoires sur les Hôpitaux de Paris, 1788, p. 216.

†Esquirol, Des Etablissemens L'Alienes en France, 1818 (Opera, Tome 2, p. 405.)

‡Ibid, p. 406.

§Cited by Esquirol, Des Maisons de Alienes (Opn., Tome 2, p. 439). "The principle being," as Dr. Browne wittily observed, "to convince one set of lunatics of their insanity by exposing before them the fury and follies of another set." (What Asylums Are, Were, and Ought to Be, p. 123, 1837.) Cp. Quarterly Review, (Vol. 57, p. 402.)

‖W. A. F. Browne, "What Asylums Were, Are, and Ought to Be," 1837, Lecture iii., Cp.; also English Parliamentary Debates (1816, June 17, Speech of Lord R. Seymour (Vol. 34, p. 1,127).

(*b.*) *The conviction that insanity was incurable gave rise to wide-spread indifference among the alienists of the day as to the physical condition of the insane.* "Les établissemens nombreux," said Colombier, in the report from which I have already quoted,* "qui existaient à cette époque n'avaient pour but, que de rassurer de public contre la fureur des insensés—sans qu'ou sougeât à administrer à ces malades le moindre remède." Speaking of *La maison royal de Charenton* Esquirol remarks, "dans cet établissement . . . on consultait plutôt la sûreté publique que le devoir de guérir les malades; on le tentait jamais sur eux aucun traitement rational; les soucis que l'on donnait à ces malheureux se bornaient à leur rendre la vie aussi supportable et aussi douce que le comportait leur état." And again he says, "Quel *regime* pour des *malades* qu 'une chaleur inferne dessèche, que la soif dévore, que la constipation tourmente?"† The convenient belief that insanity was a psychological, and incurable, disease, produced ranker abuses than the mere absence of remedial treatment in asylums which were worse conducted than that of Charenton. It justified indifference to the lunatic's health and comfort; it accounts for the absurd superstition, which does occasional forensic duty still,‡ that he was insensible to pain, and to the extremes of heat and cold; and it offered a scientific basis for the policy of "stripes, fetters, and darkness,"§ the absence of every bodily and mental enjoyment which were too long the accredited discipline in receptacles for the insane.

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*Esquirol, Op., Tome ii., p. 439., Cp. Duc de Liancout, Report to the National Assembly, 1790–'91.

†Des etablissemens d' alienes, Op., Tome ii, p. 405, et seq.

‡See the judgment of Sir James Hannen in Durham *v.* Durham, L. R., 10 P. D. 80.

§Edinburgh Review, August, 1817, *Lunatic Asylums*, cp. L' E'cole Alieniste Francaise, by Leop. Turck, 1864. Esquirol describes asylums as "fabriques de folies chroniques et de cadavres."

(*c.*) *Asylum administration was disfigured by gross negligence, and too often by positive cruelty, on the part of those who were responsible for conducting it.*

It is difficult so to marshal the evidence in favour of this proposition as to bring home its irresistible force; and yet no imperfection in the manner of handling the witnesses can suffice to discredit their testimony. I propose to give, from the writings of competent and interested observers, an account of three of the chief madhouses in Europe, before they were purged by the spirit of modern alienism.

*The York Lunatic Asylum** was constructed in 1777 to hold 54 patients. Under Dr. A. Hunter the average number of lunatics within its walls was 84 per annum, and the annual death rate about 9 per cent. (1777–1808). Under the regime of Dr. Best (1808–1814), 173 patients were every year admitted, of whom nearly 20 per cent. died annually.

A parliamentary committee appointed to inquire into the way in which this infamous establishment was carried on, reported (1), as may readily be believed from the foregoing statistics, that the asylum was over-crowded, (2) that opulent patients and private patients of the physician were admitted, and on paying perquisites to the officials received careful attention, to the neglect of the poorer patients; (3) that the asylum was in a state of extreme filth, and (4), that there was an entire absence of discipline. No official visits were paid. No one except the Governor could enter the asylum without permission from the physician. The steward, a man of 82 years, who had full powers over every servant in the house, lived a quarter of a mile from the asylum, and was often prevented by infirmity from visiting it in the winter time. An inferior male keeper was entrusted with the key of the beer and bread. The apothecary, Mr. Atkinson,

*History of York Insane Asylum by Jonathan Gray. English Parly Debates, Vol. 34, 1816, June 17, p. 1127.

claimed no authority, and the authority of his wife, the housekeeper, was partial and contested. The back door was never locked, and the servants might, and did, go out night and day. They took the cast off clothes of the patients "when they considered them to have been worn a sufficient time." * * * "On the night of the 28th of December, 1813, when a detached wing of the asylum was destroyed by fire, the physician was away attending a private patient at a distance from York; the steward was in his house; the apothecary and his wife, the housekeeper, had gone out to spend the evening; of the four servants left in charge of 120 male patients, one had left a fellow servant to lock them up and was absent. This fellow servant had put his patients to bed a little before the usual hour of eight that he might go to a dance. The third attendant was old and asthmatic, and the fourth was alone able to render any competent assistance." Two other extracts will close my sketch of the internal economy of York Lunatic Asylum: "In the asylum investigations concealment appears at every step of our progress, 365 patients have died—the number is advertised 221. A patient disappears and is nevermore heard of. He is said to be 'removed'; a patient is killed, the body is hurried away to prevent an inquest. The public cry out that a patient has been neglected. There is a levy *en masse* of responsible Governors to quell the disturbance and to certify that the patient has been treated 'with all possible care, attention, and humanity.' A committee of investigation desire to be shown the house. Certain cells in an extreme state of filth and neglect are omitted to be pointed out to them. The governors examine the accounts. There are considerable sums of which neither the receipt nor the application appears. The servant's books are inquired for. In a moment of irritation he selects for the flames such as he thought it not advisable to produce; and yet every circum-

stance of concealment is imputed by some to mere accident, and every attempt to tear off the mask and exhibit the asylum in its true character is stigmatized as a libel, or an indelicate disclosure."* The following is an extract from a speech delivered by Lord R. Seymour in the House of Commons, (June 17, 1816).† "In the York Asylum, four cells, each only eight feet square, were accidentally discovered though they had been sometime concealed from the visitors. In these four small cells thirteen females were obliged to sleep every night completely covered with filth and nastiness, and the very holes through which the air was admitted were nearly filled with filth, which the unfortunate women had no other way of getting rid of. In this house, too, it was discovered that the male keepers had access to the female patients, the consequence of which was that two patients who bore good characters before they went into the asylum, left it pregnant, the one by the principal keeper, the other by a patient," and it is stated by Gray‡ that this keeper was not only not dismissed, but continued to enjoy the confidence of the governors, and on his ultimate resignation received from them a testimony of their "approbation of his conduct during a service of 26 years."

I pass now to my second instance of an 18th century asylum. In 1204,§ John, Bishop of Winchester, had built on *La Grange aux queux*, the *Chateau de Winchester*, (Vichestre, Bicêtre), which was confiscated in 1294 by Philip le Bel, who left it to his successors. In the beginning of the 15th century it came into the possession of the Duc de Berry, who fortified it, and ultimately

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*Gray, *ubi supra*, p. 90.

†Parliamentary Debates, Vol. 34, p. 1127.

‡Page 43.

§Coup d'oeil historique et medical sur Bicêtre—par Dr. A. Millett, Paris, 1842.

(1416) presented it to the Chapter of Notre Dame. In 1632, Bicêtre was acquired by Louis XIII, who established there two years later an hospital for invalid officers and soldiers. The Hotel des Invalides having rendered it useless for this purpose, Bicêtre became, along with La Salpetriere, an hospital for the poor; and in the beginning of the reign of Louis XVI, an asylum in the modern sense of the word. In L'Hotel Dieu, there were two wards appropriated to lunatics, one containing ten, the other fourteen, beds. Here the insane were in the first instance treated, and if the recognized remedies failed they were sent to the dungeons of the Bicêtre. I do not propose to dwell on the fortuitous circumstances which had thus converted the old feudal chateau of John of Winchester into a receptacle for the insane, or to moralize upon "the fit of absence of mind"* in which the public asylums of Europe were erected. Let us confine our attention to the question of regime. Daylight and air penetrated the cells of Bicêtre only for a moment, when the doors were opened to admit a keeper, or one of the visitors who had paid to see the patients fed, or roused for his entertainment. The beds were wooden couches placed against the walls, through which rain water percolated, forming in winter time a sheet of thin ice within. The medical superintendent was not a specialist. One and a half pounds of bread were given to each inmate in the morning, and he was then left to suffer the madness of hunger for the rest of the day. Many of the lunatics died from the blows of their keepers.

In speaking of *Bedlam*, I intend to rely upon a work published in London in 1783, and entitled "An Historic Account of the Origin, Progress, and Present State of Bethlem Hospital." It is dedicated to the President, the Treasurer,

*This phrase is aptly used by Prof. Seeley to describe the expansion of England in the 18th century.

the Auditor General, and the Governors of Bridewell and Bethlem, which is described as "a charity which they conduct with no less honor to themselves than benefit to the public." The author is Thomas Bower, and as throwing light upon his strict impartiality as a witness, I may be permitted to quote the following resolution passed at a Court of Governors held at Bridewell on Wednesday, April 30, 1783: "Resolved unanimously that the thanks of the Court be given to the Reverend Thomas Bower for his historical account of Bethlem Hospital, and ordered that the same be printed and distributed in such manner (*sic*) as may tend most effectually to promote the interest of that excellent charity."—John Woodhouse, Clerk.

In 1247–(39 Henry III) Simon Fitz Mary, sometime sheriff of London, founded the priory of old Bethlem. "The prior, canons, brethren, and sisters for whose maintenance he provided were distinguished by a star upon their mantles, and were directed to receive and entertain the Bishop of S. Mary, of Bethlem and the canons, brothers, and messengers of that, their mother church, as often as they might come to England. Such," adds Bower, with unconscious irony, "was the original design of this foundation, a design as far short of the uses to which it has been since converted as the contracted views of monkish hospitality are exceeded by the more enlarged spirit of Protestant Benevolence."

In 1547 Bethlem Hospital was granted by Henry VIII with all its revenues to the Mayor, Commonalty and citizens of London, who had previously been taking steps to procure it, and provision was made for the confinement and medical relief of lunatics. The friends, if able, and if they were not able, the parish were obliged to contribute to the relief of the patients." "It remained" says Mr. Bower with unction "for the judicious benevolence of succeeding times . . . . to supply that comfortable subsistence and

tender care which, through the blessing of the divine providence, have restored so many distracted *objects* to their families and to society." A design to enlarge the hospital in 1644 was checked by the outbreak of the civil war. In 1675 new Bethlem Hospital was erected at a cost of £17,000 on the south side of the lower quarters of Moorfields—"in the neighborhood (and here I depart for a moment from the narrative of Mr. Bower) of many sewers."* In 1734† two wings were added to the hospital, and thus accommodation was provided for 100 incurable patients, 50 of each sex, and 170 curable. As the actual state of Bethlem Hospital in the 18th century, and the mental attitude of an intelligent Englishman towards the question of asylum regimen, are equally important, and equally relevant to my argument, I proceed to follow Mr. Bower without apology and almost without comment. "There are 42 Governors, 7 of whom with the treasurer, physician, and other officers attended every Saturday in monthly rotation, for the admission of patients." . . . . "The wards are spacious and airy, each gallery is 321 feet long, 16 feet 2 inches wide, and 13 feet high. There are 275 cells, each 12 feet 6 inches by 8. . . . . The order decency and cleanliness of the whole cannot but strike the curious and charitable visitors. . . The ablest medical assistance is provided. The provisions, vegetables, milk, and beer are *excellent of their kind.* . . The committee have lately allowed vegetables, and a better sort of small beer. This liberality has produced the most salutary effects upon the general health of the patients, as the medical officers have observed that the patients *have not since been afflicted with scurvy.*" "*Every morning the cells*

*Stowe's Survey of London (Strype.) The work was commenced in April, 1675, and finished in July, 1676. "So active" says Mr. Bower, "was the zeal that quickened the growth of this noble structure."

†According to Dr. Hack Tuke, 1733.

*are visited by servants who report to the apothecary.*" There was a personal inspection by the apothecary at 8, and the physician visited the hospital three times a week. The friends of the poor *objects* "have a limited access by ticket on Mondays and Wednesdays, between 10 and 12 a. m." "*No servant is allowed to strike a patient except in cases of self defence*"—the urgency of the danger being left to the judgment and discretion of the servant. Mr. Bower concludes by thanking God that Bethlem Hospital is not as other asylums, and assures his readers, what every student of the English Parliamentary Debates and Reports will readily believe, that patients were "often known to prefer it to private madhouses," and so endeth his Apologia for Bedlam.

(TO BE CONTINUED.)

# THE PROHIBITION OF HYPNOTIC EXHIBITIONS.*

A REPORT TO THE MEDICAL COUNCIL OF THE MINISTER OF INTERIOR AFFAIRS OF RUSSIA, BY PROF. T. B. MIERZEJEWSKI, OF ST. PETERSBURGH, MEMBER OF THE COUNCIL.

TRANSLATED FROM THE FRENCH BY WILLARD C. HUMPHREYS, ESQ.

The Governor of Novgorod has referred to the decision of the Minister of Interior Affairs the request of the physicians of that city concerning the prohibition of public hypnotic representations in Russia.

The question of the prohibition of public hypnotic seances, raised by the society of physicians of Novgorod, and at present the subject of the petition to the Governor of Novgorod, was debated as early as 1881 in the medical council, apropos of the experiments of Mr. Hansen. The opinion of the council, as pronounced at that time, was that these seances ought to take place in the presence of a physician, upon persons previously subjected to a medical examination, and that experiments ought not to be made more than once upon the same person; but the council did not prohibit such exhibitions in general. Moreover, as Mr. Hansen had not received any instruction in medicine, the council had judged desirable that any exhibition of hypnotic phenomena be forbidden him, as these exhibitions might have a harmful effect upon the imagination of the spectators, and give rise to false interpretations, with dangerous consequences. At this time, in the report of the special com-

*Read before Medico-Legal Society December 9, 1891.

mittee, I expressed an individual opinion, which is of full force to-day, and which I here repeat almost literally:

1. The phenomena, of nervous origin, formerly known as magnetism, mesmerism, and odism, and now as hypnotism, may be provoked by way of physiological experiment, or appear spontaneously as the result of certain pathological conditions of the organism. They then appear as a symptom of various nervous affections, such as hysteria and epilepsy.

2. Mr. Hansen's seances belong to the domain of physiological experiments, and can therefore have no scientific import, except when produced by the exact methods of science, and followed by rational explanation. But Mr. Hansen, not having had any scientific medical education, makes his experiments in a very rude manner, without any strict method of investigation, and cannot give them a proper explanation, or appreciate their value. This being the case, his experiments upon human beings degenerate into an idle and useless amusement, which, on the one hand, are injurious to health, and, on the other hand, leave the field open to explanations which are false and wanting in scientific spirit. Moreover, no one could guarantee the correctness, or even the honesty, of Mr. Hansen's experiments, for, as it is not difficult to imitate the hypnotic condition, Hansen himself could not, as I have had an opportunity to convince myself, distinguish between true and simulated hypnosis.

3. It is well known that hypnotic phenomena are far from being the same in different persons. Beard thinks that only about one person out of seven can be hypnotised. Reichenbach observes that those persons are most sensitive to so-called hypnotic manipulations who are most sensitive to odors and loud sounds, or who are subject to long attacks of migraine, to sensations of oppression in the gastric region, and to insomnia. We may probably admit that persons af-

fected with functional disturbances of the nervous system are those most subject to the influence of hypnosis.

From this point of view it is easy to understand the cases in which hypnotic experiments have been followed by convulsions or conditions of lethargy, paralysis, or delirium, such as have been observed by Mitchell, Armour, and Lafontaine. In Professor Charcot's clinic, a woman fell into a lethargy after some hypnotic experiments, and could not be aroused to her normal condition for twenty-four hours. I also have observed similar cases of convulsions and paralysis. In the same way the tendency for hypnotic results to become more and more intense every time they are produced, and even to appear spontaneously, should be reckoned among the evil consequences of hypnotic experiments. And as it has been proved that the phenomena of hypnosis are followed by variations in the pulse, they may have an injurious effect upon persons afflicted with diseases of the heart or vascular system.

4. Even supposing that the persons who present themselves as subjects for hypnotic experiment are in perfectly sound health, still they are then placed in a condition in which the use of the higher faculties of reason and will is interrupted, and they become mere automata. As these experiments thus reveal the weakness of human nature, the variability of psychical functions, and a temporary obliteration of conscience, they must necessarily, when not accompanied by proper scientific explanation, have a pernicious influence upon the moral character of the people, and lead them to believe that the man who can thus put others into such a condition of passive submission to his will, exercises over them a power of a very peculiar kind. And this too, although it has been proved scientifically that the cause of the hypnotic condition is in the more or less prolonged action of very slight irritations, produced either by the

manipulations of the "magnetizer," or by simple physical agents, such as feeble galvanic currents, vibrations of sound, etc. . . . . .

I should think that if hypnotic exhibitions were suitable, in any form, as popular amusements, Mr. Hansen might, perhaps, be permitted to make his experiments upon animals, as has been done by mountebanks for centuries; but if Mr. Hansen is permitted to experiment upon human subjects, there is no reason for refusing the same liberty to other charlatans, and in this case it would be but a short step to permit experiments with all sorts of narcotic or anæsthetic agents, such as haschisch, laughing gas, etc.

The preceding opinion, which I expressed in 1881, is still more convincing to-day, thanks to the numerous scientific data now at hand. Two different doctrines at present prevail concerning the methods of production and the interpretation of hypnotic phenomena. The one, represented by the school of La Salpetriere, with its founder, Prof. Charcot, at its head, is of the opinion that hypnosis is produced in the first place by the action of physical agents, and presents a pathological influence, a neurosis similar to certain morbid conditions which appear spontaneously in a few serious disorders, such as hysteria and epilepsy, and that persons suffering from these disorders are peculiarly predisposed to hypnosis. On the other hand, the school of Nancy, with Mr. Bernheim, endeavors to demonstrate that hypnosis arises exclusively under the influence of suggestion in perfectly healthy persons, and that its phenomena are dependent upon psychical and not physical conditions. The disciples of the first school do not believe very strongly in the applicability of hypnosis as a curative agent, and Prof. Charcot, in a letter to Prof. Guttmann, says that "hypnotic suggestions, far from always being efficacious as therapeutic agents, are sometimes simply harmful and give rise to con-

vulsions in persons who have never before had them." The followers of the school of Nancy look upon hypnosis as a curative agent of much importance from the standpoint of physical therapeutics. Both of these schools, however, united, at the International Congress last year, adopted the same attitude in favor of the prohibition of hypnotic exhibitions.

The harmful influences of such exhibitions may be either such as produce an immediate effect upon the subjects of the experiments or upon the audience, or such as are followed by harmful consequences some time afterwards. Among the dangerous influences of the former class are those which have a pernicious effect upon the respiratory and vascular systems, or which tend to cause hysterics, lethargy, convulsions, or paralysis, not merely in the persons subjected to the manipulations, but also spontaneously, among the spectators. . . . . .

A man is shown to the spectators in the full posssession of his intellectual faculties, who, under the influence of the simple manipulations of the hypnotizer, gradually loses his power of judgment and self-control, even so far as to believe himself the victim of most absurd illusions or the author of extravagant crimes. He then becomes a mere plaything in the hands of the magnetizer, a mere automaton, preserving only the functions of vegetable life. The spectators of such an exhibition remain in a continued and very exhausting condition of nervous excitement, and frequently manifest spontaneous hypnotic phenomena or fall into conditions of hystero-epilepsy.

Among the dangerous influences of the second class, the following are especially worthy of notice: (1.) The epidemics of hypnotic mania which broke out in Neufchâtel and Chaux-Fonds in 1880 are well known. They were particularly noticeable among the pupils in the schools, and many

cases of nervous disorders were observed in persons who had witnessed the hypnotic exhibitions of Donato, whose exhibitions again caused a similar epidemic in Lausanne in 1881. Analogous instances have been seen in France, Italy, Austria, and Belgium, and have been commented upon by Professors Charcot and Lombroso. (2.) Those suggestions, called post-hypnotic, and which, though made during the hypnotic trance, have reference to acts which the subject is not to perform until some future date, may become the cause of crimes suggested by the hypnotizer and carried out without wrongful intent by his patient, or of conduct contrary to public order and peace. Thus, in Geneva, the magnetiser Onsfroff was forbidden the public exhibition of hypnotic seances because he had, during such a seance, suggested to his subjects to appear the following day upon one of the public squares of the city, and there to enact various absurd pantomimes. . . . . .

In spite of these data, which demonstrate the harmful effect of public hypnotic exhibitions upon the health of the public, physicians are still obliged to enter into disputes upon the subject of their prohibition with the representatives of science. Mr. Delboeuf, for example, Professor of Philosophy at Liege, pleads in favor of hypnotic science "in the name of liberty," and believes that hypnotism should not remain a monopoly of the medical profession. His position is rendered untenable by the reply of Mr. Ladame, of Geneva, who retorts that the liberty of the hypnotized subject is destroyed by the hypnotizer, to whose will he is for the time being abjectly submitted.

The dangerous consequences of unrestricted hypnotic exhibitions have induced the leading medical societies of all countries to take measures in defense of public safety by pleading in favor of the prohibition of public seasance. The Medico-Legal and Medico-Psychological Societies of Paris

have adopted resolutions favoring the interdiction of public hypnotic exhibitions, and the same has been done by the Imperial Society of Physicians of Vienna, the Sanitary Council and the Royal Society of Hygiene in Italy, and the Academy of Medicine in Belgium. . . . . .

By reason of the preceding I am of the opinion that, out of regard for the health of the public, the public exhibition of hypnotic phenomena ought to be forbidden by the administration. . . . . .

[The medical council, in accord with the opinion pronounced by Mr. Mierzyewski, rendered a decision that (1.) Public seances of hypnotism ought, for reasons of public hygiene, to be prohibited by the government. (2.) The application of hypnotism as a curative agent should be permitted only to physicians and on the same condition as, by the present law, surgical operations, namely, in the presence of other physicians.]

# TRANSACTIONS.

## MEDICO-LEGAL SOCIETY.

PRESIDENCY OF CLARK BELL, ESQ.

November 11, 1891. Society met at Hotel Buckingham. President Clark Bell, Esq., in the chair.

The following persons, nominated by Clark Bell, Esq., and approved by the Executive Committee, were duly elected:

ACTIVE MEMBERS.

Theodore Diller, M. D., Pittsburgh, Pa.; Hans Heilman, 1701 Messonie, Cor. 17th Street, St. Joseph, Mo.; J. Fletcher Horne, Barnsley, England; G. R. Trowbridge, Assistant Physician Pennsylvania State Hospital for Insane, Danville, Pa.; Judge A. S. Walker, Austin, Texas; and proposed by Dr. DiMoise, Dr. A. Gaston Roeth, 176 Harrison Avenue, Boston, Mass.

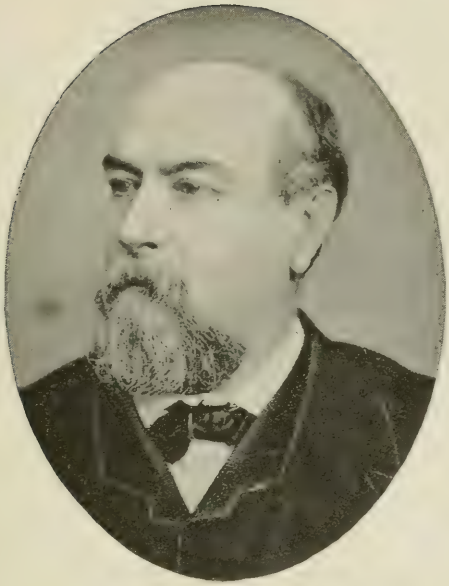
CORRESPONDING MEMBERS.

Proposed by Clark Bell, Esq.

Judge J. P. White, Presiding Judge, Austin Texas; Judge W. J. Hurt, Dallas, Texas; Judge W. L. Davidson, Georgetown, Texas, of the Court of Appeals of the State of Texas; Dr. S. Ottolenghi, of Turin, Italy; Judge Samuel A. Wilson, Rusk, Texas.

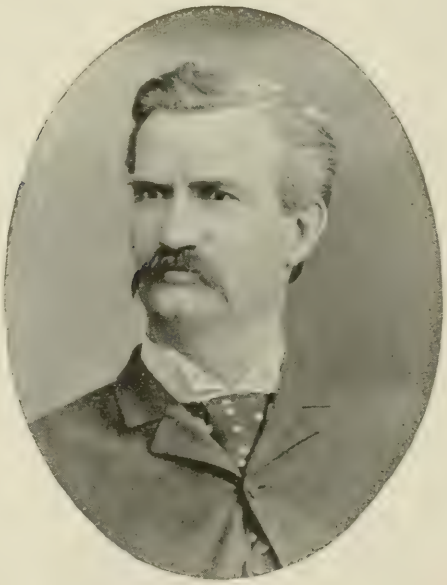
Theodore Diller, M. D., of Pittsburgh, Pa., read a paper on "Mechanical Restraint of the Insane."

The chair stated that a copy of Dr. Diller's paper had been sent to a number of asylum superintendents, home and foreign, with a request for their views upon the subject, and some of the replies were read, viz.: From Dr. P. Bryce,



HON. JOHN P. WHITE.
Presiding Judge.

HON. JAMES M. HURT,
Associate Judge.



HON. W. L. DAVIDSON.
Associate Judge.

TEXAS COURT OF APPEALS.

Ala. State Hospital for Insane, read by Judge H. M. Sommerville; one from D. W. B. Fletcher, of Indiana, read by Morris Ellinger, Esq.; one from P. M. Wise, Superintendent State Asylum, Ogdensburg, N. Y.; one from Dr. Gershom H. Hill, Iowa State Asylum, read by Dr. T. D. Crothers, of Hartford, Con.; one from Dr. D. Hack Tuke, of London, read by the President; one from Dr. W. W. Godding, Government Hospital for Insane, read by Willard C. Humphreys, Esq.; one from Dr. Chapin, Superintendent of City Hospital, Philadelphia, was read by Dr. Somerville, Assistant Physician at Tuscaloosa Hospital, Ala.; one from Dr. Henry Maudsley, of London, read by the President; one from Dr. G. Alder Blumer, Superintendent State Asylum at Utica, N. Y., was read by Vice-President Albert Bach; one from Dr. Tourtellot, of Utica, was read by Secretary Humphreys; one from Dr. Charles W. Pilgrim, Superintendent State Hospital, at Willard, N. Y., was read by Dr. Isaac Lewis Peet, one from Dr. Carlos F. McDonald, State Commissioner on Lunacy, was read by the Secretary. The chair announced that he had received a large number of replies that could not be read that evening for want of time, from superintendents of asylums, and that others would probably be received hereafter.

Dr. Diller, on invitation of the chair, made extended remarks on the discussions, replying to those authors who had assailed the positions taken in his paper.

The following papers were read :

The Morphologic Constitution of Crystals of Emina, by Dr. S. Ottolenghi, of Turin, Italy. Spontaneous Recovery in Acute Arsenical Poisoning, by Prof. Harold N. Moyer, of Chicago; Insanity and Crime, by T. Fletcher Horne, M. D., of Barnesley, England.

The paper of Dr. Ottolenghi was, on motion, referred to a committe of chemical members of the society to examine and report their conclusion to the body. The chair named as

such committee, Prof. Vaughan, of Michigan; Dr. Charles B. Miller, of Philadelphia, and J. B. Lewis, M. D., of Hartford, Con.

The society then proceeded to the nomination of officers. Mr. Clark Bell was nominated by Mr. Albert Bach for President.

Mr, Bell said: That he was gratified by the kind, loyal support given him by every member of the society during his extended term, and did not underrate the high honor of the position, nor its great responsibilities, but the increase of labor devolving upon him in connection with the International Medico-Legal Congress of 1893, the editorial work of the JOURNAL, and its increasing responsibilities, forbade his accepting the office at the present time; that he should not loose his interest in the labors of the society, nor relax his efforts for its success. He nominated Judge H. M. Somerville for the place, and had obtained his consent to take that chair for the ensuing year; that he had consented to aid Judge Somerville in all ways in his power, and would for the present, in that view, accept the place of General Secretary, which Mr. Humphreys had declined. The following nominations were then made:

*For President,*
H. M. Somerville, Esq.

*For Corresponding Secretary,*
Moritz Ellinger, Esq.

*For Chemist,*
Prof. H. A. Mott, Jr.

*For 1st Vice-President,*
Peter Bryce, M. D., of Alabama.
William Orange, M. D, of London.
Prof. R. O. Doremus, of New York.

*For Treasurer,*
Mathew D. Field, M. D.

*For Trustees,*
Dr. H. W. Mitchell.
E. W. Chamberlain, Esq.

*For Permanent Commission.*

LEGAL.
Judge John F. Dillon, of New York.

MEDICAL.
Dr. W. W. Godding, of Washington.
Prof. Victor C. Vaughan, of Mich.

*For Librarian,*
Thomas Cleland, M. D.

*For Assistant Librarian,*
G. Bettini de Moise, M. D.

*For 2d Vice-President,*
Albert Bach, Esq.

*For Secretary,*
Clark Bell, Esq.

*For Assistant Secretary,*
L. L. Mial.

*For Curator and Pathologist,*
J. Clarke Thomas, M. D.

*Vice-Presidents for the States, Territories and Provinces.*

Alabama—Judge Thos. W. Coleman, Montgomery.
Algeria—Dr. C. Perronnet, Algiers.
Arkansas—P. O. Hooper, M.D., Little Rock.
Austria—Prof. R. Krafft-Ebing, Vienna.
Belgium—Dr. Vleminckx, Brussels.
California—W. W. McFarlane, M.D., Agnew.
Colorado—Prof. J. T. Eskridge, Denver.
Connecticut—Dr. Henry P. Geib, Stamford.
Cuba—Dr. Venancio Zorilla, Havana.
Dakota—Judge William H. Francis, Bismarck.
Delaware—Gov. T. S. Biggs.
Denmark—Prof. Godeken, Copenhagen.
District of Columbia—W. W. Godding, M.D., Washington City.
England—Wm. L. Orange, M.D., Brighton.
Ecuador—Señor J. M. P. Cammano, Washington, D.C.
Florida—Dr. King Wylly, Sandford.
France—Judge Barbier, Paris.
Georgia—Dr. Eugene Foster, Augusta.
Germany—Prof. D. Furstner, Heidelberg.
Holland—Dr. P. A. H. Sueens, Vucht.
Hungary—Staatsanwalt Emerich V. Havas, Buda Pesth.
Illinois—Dr. Milo A. McClelland, Chicago.
Indiana—W. B. Fletcher, M.D., Indianapolis.
Iowa—Dr. Jennie McCowen, Davenport.
Ireland—Dr. R. J. Kinkead, Galway.
Italy—Prof. Dr. P. Pellicani, Bologna.
Japan—Dr. Kensai Ikeda, Tokio.
Kansas—Judge Albert H. Horton, Topeka.
Kentucky—Dr. D. W. Yandell, Louisville.
Louisiana—Dr. Joseph Jones, New Orleans.
Maine—Judge L. A. Emery, Ellsworth.
Manitoba—Dr. D. Young, Selkirk.
Maryland—H. B. Arnold, M.D., Baltimore.
Massachusetts—Ed. J. Cowles, M.D., Somerville.
Mexico—Prof. Ramirez, Mexico.
Michigan—Victor C. Vaughan, Ann Arbor.
Minnesota—Prof. W. A. Hall, Minneapolis.
Missouri—Judge J. C. Normile, St. Louis.
Mississippi—Dr. C. A. Rice, Meridien.
Montreal—Daniel Clark, M.D., Toronto.
Nebraska—Dr. Wm. M. Knapp, Lincoln.
Nevada—S. M. Bishop, Reno.
New Brunswick—Judge A. L. Palmer, St. Johns.
New Hampshire—Hon. Daniel Barnard, Franklin.
New Jersey—Hon. Geo. A. Halsey, Newark.
New Mexico—Gov. Bradford L. Prince,
New South Wales Geo. A. Tucker, M.D.
New York—Mrs. M. Louise Thomas, New York City.
New Zealand—Prof. Frank G. Ogston, Dunedin.
North Carolina— F. T. Fuller, M.D., Raleigh.
Norway—Dr. Harold Smedal, Christiana.
Nova Scotia—Simon Fitch, M.D., Halifax.
Ohio—W. J. Scott, M.D., Cleveland.
Pennsylvania—Hon. Henry M. Hoyt, Philadelphia.
Peru—Señor F. C. C. Zegarro, Washington, D C.
Portugal—Prof. Dr. Antonio Henriques da Silva, Coimbra.
Rhode Island—Henry E. Turner, M.D., Newport.
Russia—Prof. Dr. Mierzejewski, St. Petersburgh.
Saxony—Judge de Alinge, Oberkotzon Hof.
Scotland—W. W. Ireland, Preston Pans, Edinburgh.
Servia—Hon. Paul Savitch, Belgrade.
Sicily—Prof. Dr. Fernando Puglia, Messina.
South Carolina—Dr. Middleton Michel, Charleston.
Spain—Prof. Dr. Jeronimo, Granada.
Sweden—Prof. Dr. A. Winroth, Lund.
Switzerland Prof. Dr. August Forel, Zurich.
Tennessee—John H. Callander, M.D., Nashville.
Texas—Dr. D. R. Wallace, Terrell.
Utah—Le Grand Young, Esq., Salt Lake.
Vermont—Dr. J. Draper, Brattleboro.
Virginia—Dr. James D. Moncure, Williamsburg.
Washington Ter.—Ex-Gov. Wm. C. Squire, Seattle.
West Virginia—F. M. Hood, M.D., Weston.
Wisconsin—Dr. Jas. H. McBride, Wauwatosa.
Montana—W. H. Haviland, M. D.

The resignation of Franklin R. Haines, as Assistant Secretary, was accepted by unamious consent, the rule suspended and the vacancy filled by the election of Willard C. Humphreys, as Assistant Secretary for the unexpired term.

The committee on resolutions, submitted by Dr. Mattison, were given farther time.

Sophia McClelland asked leave, on account of the lateness of the hour, to postpone for the evening the introduction of the resolutions regarding alcohol and crime, which was granted.

The President was directed to publish the letters on mechanical restraint in the JOURNAL, and such as came later after the session on this subject.

Morris Ellinger, upon request of the Executive Committee, made some extended remarks on the life and career of Dr. Virchow, of Berlin, and moved his election as an honorary

member, which was endorsed by the Executive Committee and carried unaimously.

The lateness of the hour forbade the discussion of all other papers.

The society directed the President to change the place of meeting, and to call the annual meeting at another place.

Society adjourned.

WILLARD C. HUMPHREYS,

*Secretary,*

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## ANNUAL MEETING.

PRESIDENCY OF CLARK BELL, ESQ.

Society met at Marlborough Hotel, December 9, 1891, President CLARK BELL in the chair.

The minutes of the April, May, June, October, and November meetings were read and approved.

The chair appointed as tellers Dr. Quimby, of New Jersey; Sophia McClelland, of New York; and Dr. Ira O. Tracy, of Brooklyn, N. Y,, to whom the Assistant Secretary delivered the ballots.

The following persons, proposed by President Bell, were duly elected active members:

Chief Justice R. S. Strahan, Supreme Court of Oregon, Salem; Henry L. Landon, Esq., New York City; W. K. James, Esq., New York City; A. M. Keener, M. D., Burt, I. T.; Dr. Walters, Burt, I. T.; Thomas W. Pittman, Esq., New York City ; Dr. W. P. Burts, Waca, Texas ; Hon. L. L. Terrill, (Mayor, &c.,) Terrill, Texas.

Proposed by Dr. Cleland: John P. Nolan, M. D., 41 Charlton street, New York.

For corresponding members:

Proposed by Clark Bell, Esq.: General Thomas Ewing, New York City; Judge Brewer, Supreme Court United States; Dr. R. J. Dungleson, of Philadelphia, Pa.; Judge R. B. Westbrook, of Philadelphia; Dr. Clevenger, of Chicago; Bigelow T. Sanborn, M. D., Superintendent State Lunatic Asylum, Augusta, Maine; Judge Edwin Hobby, Livingston, Polk county, Texas; Judge William E. Collard, Franklin, Robertson county, Texas; Judge D. P. Marr, Pearsall, Texas, Sec. A. Commission of Appeals, Supreme Court of Texas; Judge C. C. Garrett, Brenham, Washington county, Texas; Judge B. D. Tarlton, Hillsboro, Hill county, Texas; Judge H. C. Fisher, San Angelo, Texas.

A paper was read by the Secretary, Willard S. Humphreys, Esq., being a translation of a paper from Prof. Mierzejewski, of St. Petersburgh, on *Legal Prohibition of Hypnotic Public Exhibitions.*

It was, on motion, referred to the standing section on Hypnotism.

Dr. W. P. Spratling read a paper on *Moral Insanity*, with clinical cases.

The chair submitted letters received by him on the pending discussion upon "Mechanical Restraint in Treatment of the Insane," which were read, from Dr. Steeves and Dr. P. M. Wise, by the Secretary; from Dr. Prince, of Illinois, by the Secretary; from Dr. C. H. Hughes, C. R. Trowbridge, and Dr. Yellowlees, read by the President; from Dr. Dewey, by Dr. Gorton; from Dr. W. W. Ireland, by Dr. Cleland; and letters from R. L. Parsons, Dr. C. B. Burr, of Michigan, and others were read.

The tellers reported the election of the following officers for the ensuing year, who were declared elected by the chair:

*For President,*
H. M. Somerville, Esq.

*For 1st Vice-President,*
Peter Bryce, M. D., of Alabama.

*For Corresponding Secretary.*
Moritz Ellinger, Esq.

*For Treasurer,*
Mathew D. Field, M. D.

*For Permanent Commission,*

LEGAL.
Judge John F. Dillon, of New York.

*For Librarian,*
Thomas Cleland, M. D.

*For 2d Vice-President,*
Albert Bach, Esq.

*For Assistant Secretary,*
L. L. Mial.

*For Chemist,*
Prof. H. A. Mott, Jr.

*For Trustees,*
Dr. H. W. Mitchell.
E. W. Chamberlain, Esq.

MEDICAL.
Dr. W. W. Godding, of Washington.

*For Assistant Librarian.*
G. Bettini de Moise, M. D.

*For Secretary,*
Clark Bell, Esq.

*For Curator and Pathologist,*
J. Clarke Thomas, M. D.

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Arkansas—P. O. Hooper, M.D., Little Rock.
Austria—Prof. R. Krafft-Ebing, Vienna.
Belgium—Dr. Vleminckx, Brussels.
California—W. W. McFarlane, M.D., Agnew.
Colorado—Prof. J. T. Eskridge, Denver.
Connecticut—Dr. Henry P. Geib, Stamford.
Cuba—Dr. Venancio Zorilla, Havana.
Dakota—Judge William H. Francis, Bismarck.
Delaware—Gov. T. S. Biggs.
Denmark—Prof. Godeken, Copenhagen.
District of Columbia—W. W. Godding, M.D., Washington City.
England—Wm. L. Orange, M.D., Brighton.
Ecuador—Señor J. M. P. Cammano, Washington, D.C.
Florida—Dr. King Wylly, Sandford.
France—Judge Barbier, Paris.
Georgia—Dr. Eugene Foster, Augusta.
Germany—Prof. D. Furstner, Heidelberg.
Holland—Dr. P. A. H. Sueens, Vucht.
Hungary—Staatsanwalt Emerich V. Havas, Buda Pesth.
Illinois—Dr. Milo A. McClelland, Chicago.
Indiana—W. B. Fletcher, M.D., Indianapolis.
Iowa—Dr. Jennie McCowen, Davenport.
Ireland—Dr. R. J. Kinkead, Galway.
Italy—Prof. Dr. P. Pellicani, Bologna.
Japan—Dr. Kensai Ikeda, Tokio.
Kansas—Judge Albert H. Horton, Topeka.
Kentucky—Dr. D. W. Yandell, Louisville.
Louisiana—Dr. Joseph Jones, New Orleans.
Maine—Judge L. A. Emery, Ellsworth.
Manitoba—Dr. D. Young, Selkirk.
Maryland—H. B. Arnold, M.D., Baltimore.
Massachusetts—Ed. J. Cowles, M.D., Somerville.
Mexico—Prof. Ramirez, Mexico.
Michigan—Victor C. Vaughan, Ann Arbor.
Minnesota—Prof. W. A. Hall, Minneapolis.
Missouri—Judge J. C. Normile, St. Louis.
Mississippi—Dr. C. A. Rice, Meridien.
Montreal—Daniel Clark, M.D., Toronto.
Nebraska—Dr. Wm. M. Knapp, Lincoln.
Nevada—S. M. Bishop, Reno.
New Brunswick—Judge A. L. Palmer, St. Johns.
New Hampshire—Hon. Daniel Barnard, Franklin.
New Jersey—Hon. Geo. A. Halsey, Newark.
New Mexico—Gov. Bradford L. Prince.
New South Wales—Geo. A. Tucker, M.D.
New York—Mrs. M. Louise Thomas, New York City.
New Zealand—Prof. Frank G. Ogston, Dunedin.
North Carolina—F. T. Fuller, M.D., Raleigh.
Norway—Dr. Harold Smedal, Christiana.
Nova Scotia—Simon Fitch, M.D., Halifax.
Ohio—W. J. Scott, M.D., Cleveland.
Pennsylvania—Hon. Henry M. Hoyt, Philadelphia.
Peru—Señor F. C. C. Zegarro, Washington, D. C.
Portugal—Prof. Dr. Antonio Henriques da Silva, Coimbra.
Rhode Island—Henry E. Turner, M.D., Newport.
Russia—Prof. Dr. Mierzejewski, St. Petersburgh.
Saxony—Judge de Alinge, Oberkotzon Hof.
Scotland—W. W. Ireland, Preston Pans, Edinburgh.
Servia—Hon. Paul Savitch, Belgrade.
Sicily—Prof. Dr. Fernando Puglia, Messina.
South Carolina—Dr. Middleton Michel, Charleston.
Spain—Prof. Dr. Jeronimo, Granada.
Sweden—Prof. Dr. A. Winroth, Lund.
Switzerland—Prof. Dr. August Forel, Zurich.
Tennessee—John H. Callander, M.D., Nashville.
Texas—Dr. D. R. Wallace, Terrell.
Utah—Le Grand Young, Esq., Salt Lake.
Vermont—Dr. J. Draper, Brattleboro.
Virginia—Dr. James D. Moncure, Williamsburg.
Washington Ter.—Ex-Gov. Wm. C. Squire, Seattle.
West Virginia—F. M. Hood, M.D., Weston.
Wisconsin—Dr. Jas. H. McBride, Wauwatosa.
Montana—W. H. Haviland, M. D.

The chair announced that the annual banquet had been ordered for the month of January, the time and place of which would be sent members when fixed.

The Society adjourned.

WILLARD C. HUMPHREYS,
*Secretary.*

# EDITORIAL.

## THE PRESIDENCY OF THE MEDICO-LEGAL SOCIETY.

To the Members of the Medico-Legal Society:

Considerations of a personal and business nature compelled me to decline a re-election to the chair I have so long filled, with your kind suffrages.

This step was taken in pursuance of a determination formed last year.

The act does not signify any diminution of my interest in either the success of the Medico-Legal Society or in the progress of medical jurisprudence.

The labors incident to perfecting the arrangements for the International Medico-Legal Congress of 1893 require a large portion of my time.

The field occupied by the Medico-Legal Journal is broadening and widening, and constantly increases demands upon me, which I can with difficulty meet.

I am in the active practice of the law in the city of New York, and the time has come when I need to lay down some of the labors devolving upon me in the Medico-Legal Society, at least for the present.

The gentleman who has consented to accept the high position is one every way competent to fill the place with dignity, ability, and credit to the body. Judge Somerville has lately resigned from the bench of the Supreme Court of Alabama to accept a position on the National Board of Customs Appraisers, to which place he has been, although a Democrat, appointed by the President of the United States. His tempo-

rary residence will be in the city of New York, and I estem it a great piece of good fortune for the Society, as it is a sincere pleasure to me, to nominate him for the chair I have so long held by your kind indulgence and partiality.

With sincere thanks to you all, who have so splendidly sustained me during my administration, and with earnest hope that the change may be for the welfare of the body and the progress of the cause, I remain,

Very faithfully yours,

CLARK BELL.

New York, Nov., 1891.

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## MEDICAL MEN AS PUBLIC OFFICIALS.

The London *Lancet* gives the names of English towns that have elected their Mayors from the medical profession: Brighton, Bedford, Lymington, Manchester, Barnsley, Bury, Stratford-on-Avon, Bridport, Chichester, Saffron, Walden, Montgomery, Yeovil, Bristol, and, last of all, Edinburgh.

We see no reason why a medical man should not be a good public official, and we think we know medical men in London who would worthily fill the Lord Mayor's chair. Certainly Dr. Henry Maudsley, Dr. John C. Bucknill, or Sir Crighton Browne, would adorn the position, as would Dr. Orange or Dr. Lawson Tait.

The late Dr. Fordyce Barker would have made an admirable Mayor of this city, as would the late Dr. Carnochan, and our present gifted and versatile Professor Doremus.

We are glad to see the medical men taking official seats among our English cousins.

We recall Dr. Milo McClelland as Mayor of Galesburgh, and should congratulate New Orleans if it secured Dr. Joseph Jones for Mayor.

## ELECTROCUTION.

The certificate of Warden Brown, of Sing Sing, upon the death of Martin D. Loppy, who was executed on December 7, together with the report of the autopsy on the body, was filed yesterday with Deputy County Clerk Scully. It shows that the death of the murderer was apparently instanteneous and painless.

The method of application of the current, as previously agreed upon, was by a series of brief contacts not exceeding fifteen seconds each, with intervals of sufficient length to permit of wetting the electrodes. The first contact continued fifteen seconds, the second eleven seconds, the third fifteen and one-half seconds, and the fourth ten and one-half seconds, making a total of fifty-two seconds.

The readings of the volt meter taken by Professor Landy indicated an average pressure during the several contacts of 1,716 volts, with nearly seven ampheres. Death was apparently instantaneous and painless.

Dr. Ira VanGiesen, in reporting upon the autopsy, says: "Rigor mortis was almost completely, if not entirely, absent except in the right leg. There were no discolorations, contusions, or marks, except at the knee, where the electrode was applied, and at the cheeks, where there were marks corresponding with the restraining straps."

Comparing this case with the previous executions, the Doctor says that a current of 1,400 to 1,600 volts does not do any damage to any of the internal organs, tissues, or muscles. The local thermic effects of the electrodes are limited to the outer scarf skin. The true skin beneath is not damaged to any appreciable extent.

The New York *Herald*, in commenting editorially upon this report, says:

> The total period of contact was therefore eight seconds less than a minute.

Doctors MacDonald and Ward declare that "death was apparently instantaneous and painless."

It would seem as though this method of executing criminals had now passed beyond the stage of experiment.

We quite agree with the *Herald*, and presume that the executions by electricity under the new statute will be regarded by all unprejudiced minds as free from the revolting scenes so often witnessed at the scaffold on the occasion of public executions in capital cases.

## ZOOLOGY AND LEGAL MEDICINE.

The Paris correspondent of the London *Lancet* contributes the following, which appears in that journal Nov. 21, 1891:

An interesting case of the applicability of zoological facts to legal medicine is related by M. Fallot, of Marseilles. In the month of June last some fisherman discovered, floating off the harbor of Marseilles, a corpse in an advanced state of decomposition. The tissues presented the transformation known as saponification. In certain places the skin had the mammilated appearance described by Devergie, while that of the skull and face was detached and floating. The articulations of the elbows, wrists, and phalanges were more or less laid open, and the question was, How long was the body in the water? Devergie's tables did not go beyond four months and a half. In the case under consideration the solution of the problem was furnished by the following: The debris of the clothing, which yet covered the body, was covered with barnacles, and it is known that these crustacea fix themselves to floating objects during the months of April and May. As it was further noted that the body was covered with barnacles which varied sufficiently in size to be distinguished as belonging to two successive generations, it was concluded that the body had been in the water for at least thirteen months.

## HUMOR OF THE BENCH.

Members of the bar, judges, or subscribers, who can furnish humorous anecdotes of the bench, home or foreign, will greatly oblige the editor by forwarding the same to him.

He will be obliged for references to anecdotes of this kind, no matter how old or how often repeated.

## THE SUPREME COURT OF THE STATES AND PROVINCES OF NORTH AMERICA.

We are about to issue this volume, and have concluded to forward it to such parties as prefer to have it in parts, before the first volume is completed. The first part or series of volume one will contain, for each State and Province:

1. A historical sketch of the Supreme Court.

2. Sketches and portraits of the Chief and Associate Justices.

3. Additional sketches and portraits of former Judges, Court House, etc.

The first part will contain sketches of Texas, Kansas, Georgia, Alabama, Rhode Island, and perhaps New Brunswick, New Jersey, and Connecticut, or Maine.

It will appear in February or March, 1892, and will be sent in advance to subscribers for the work only.

The subscription price of the first volume, to contain at least half the States, will be $5.00, and the parts will be sent in advance or not, as the subscriber desires.

We hope the legal members of the society and the bar generally will subscribe for this work. Address this journal.

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## THE BULLETIN OF THE INTERNATIONAL MEDICO-LEGAL CONGRESS OF 1889.

This volume has been delivered to all subscribers who have remitted.

In case any one has been omitted please advise this journal.

This volume is richly worth its price, $3.00, and a few copies are still subject to the order of members, or those who desire them.

## THE INTERNATIONAL MEDICO-LEGAL CONGRESS OF 1893.

The indications now point to Chicago as the place to be selected for this congress.

The President is in favor of selecting that city, in case suitable provisions are made for the congress, which will doubtless be done by our confreres in Chicago. Additional papers are announced by Prof. J. Reese, of Philadelphia; Dr. J. Edward Potter, of Newark, N. J.; Dr. Frank H. Ingram, of New York; Prof. Mierzejewsky, of St. Petersburgh, Russia.

Those who will contribute papers, please address the Editor of this journal.

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## ALCOHOLISM AND CRIME.

Dr. Searcy, of Alabama, in his address before the Alabama State Medical Society, attributes the physical degeneracy of the Indian race in that State to alcohol. He claims that the government of the United States, in efforts to manage the Indians, recognizes this fact, or that drinking has to be *stopped* before any progress can be made.

He also claims that the institution of slavery in Alabama improved the black man physically, saved from alcoholic abuses by it, and deteriorated the white race who were more under its influence.

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## MECHANICAL RESTRAINT.

The complete article, the preliminary portion of which is in this number of the JOURNAL, will be published as a brochure, and can be obtained by addressing this office.

# RECENT LEGAL DECISIONS.

## CATHCART VS. CATHCART.

A case of extraordinary interest has been recently tried in London before Mr. Bulwers, one of the masters in lunacy, and a jury.

It was brought by Mr. Cathcart against his wife, a lady of large fortune and eccentric habits, to have her adjudged a lunatic. Great public interest was aroused over the trial, Sir Henry James appearing for the husband and Sir Charles Russell for Mrs. Cathcart.

Notwithstanding strong proof of great eccentricities and even delusions, the jury pronounced her sane, and the attemp, was defeated. The medical evidence was by Drs. Blandford, George H. Savage, Dr. Playfair, and the only medical evidence really against her insanity was that of Dr. Clay Shaw. It is not unlikely that while the jury may have regarded her insane, they would not render a verdict that committed her to an asylum. Sir Charles Russell in cross-examining Dr. George H. Savage, had him say that he regarded the Poet Rosseau as insane, but refused to state whether he would have sent him to an asylum or not.

The disparity of years, (her husband being her cousin and many years younger than herself,) her great wealth and social position, his not being wealthy, doubtless weighed far more than its value with the jury, and, besides, there is a decided feeling that all insane persons should not be committed to asylums, and only those who are dangerous to themselves or others, or who would clearly be benefited by committal, should be placed in asylums.

### THE DUNCAN CASE.

The acquittal of Duncan, charged with a homicidal assault upon his wife, tried in England before Mr. Justice Lawrence and a jury, is, from our standpoint, one of the most important of recent English trials, where insanity was pleaded. Mr. Justice Lawrence charged the jury, modifying the usual charge of English judges as to the right and wrong test. Duncan, though insane and laboring under delusion, unquestionably knew the difference between right and wrong, and well knew the nature and character of the offense, and that murder was punishable by law. Judge Lawrence added, as an alternative to the usual charge, "Was the prisoner unable to control his actions in consequence of a disordered mind?" Dr. Cox for the Crown, and Dr. Hack Tuke for the prisoner, were expert witnesses.

### POWER OF COURT TO ORDER A PHYSICAL EXAMINATION.

The Supreme Court of the United States has held that the Federal Courts have no power to compel the plaintiff in an action for personal injuries to submit to a physical examination at the instance of the other side (Justices Brewer and Brown dissenting.)

Union Pacific R. R. *vs.* Botsford (*Albany Law Journal*, Oct. 14, 1891.) The effect of this decision in State Courts gives rise to serious discussions.

The jurisdiction of the Supreme Court of the United States is perhaps limited to the language of the acts conferring its powers. In State Courts of original common law jurisdiction, such a position could not be maintained. The *New York Law Journal* combats the decision as to State Courts, as do various law journals, except the *Albany Law Journal*, which favors the doctrine of the United States Court.

In the State of New York, and, indeed, in most of the States, it would be in the power of the Court to make such

an order, as in other States where such authority has been exercised.

We incline to the views of the *New York Law Journal*, that the State Courts will hold that it is a question addressed to the discretionary powers of the Court, which they would exercise, if, in their opinion it would tend to aid in securing the ends of justice.

# JOURNALS AND BOOKS.

## NEW YORK STATE BOARD OF CHARITIES.

Annual report for 1890. Senate document made to the Senate February 5, 1891.

It is a great misfortune, (whose fault it is we do not know,) that this report is not printed and distributed at once. It is full of valuable data, contains strong reccommendations to the Legislature, whose members do not see it till after the session closes, and its influence will be on the Legislature to come rather than the one which receives it.

The logic of the report as to the usefulness of this Board in visitation and inspection of the hospitals for the insane, and its non-conflict with the Lunacy Commission, is sound. The Board is advisory merely. The tendency of the legislation establishing the Lunacy Commission has been aggressive, and to give power to that commission, which for years was advisory also. The desire of the commission has been to increase and extend its actual powers, not to remain advisory merely. This is a new system. It is untried. It does not exist anywhere in the world clothed with such powers as in New York. The system is on trial. In wise hands it can do good and should be sustained, but it has nothing to fear from the State Board of Charities. Their duties do not at all conflict. They should work in harmony.

Some of the objectionable elements of the State Board of Charities have been eliminated. Its policy of leaving all the great charities of this city to the city members was a grave mistake, and occasioned much of the distrust of the Board that has existed. It would be far better for the city institutions that all the city members should be left off the oversight than to have left them as hitherto—wholly in the charge of the city members. There is great talent on the State Board. Mr. Oscar Craig, the President, is a strong and a good man. So is Mr. W. P. Letchworth, the late President. The country members have been exceptionally strong, active, and capable. It has been a source of regret that this could not be said of all the city members.

We hope this condition has been cured by recent changes in the *personnel* of the Board.

The report is most valuable. The statistics as to the insane and the other dependent inmates of the various State Institutions and Charitable Institutions are invaluable. Mr. Letchworth's paper on Poor House Construction is admirable. Commissioner Walrath's report on the Alms Houses of the 6th Judicial District should be read by every member of the Legislature, as well as Commissioner Foster's in the 4th.

But where is the report from the 3d, the 5th, the 7th, and the 8th Judicial Districts, on the same subject?

As this Board is now composed it can do great good, and we hope to see confidence restored in its usefulness, which can best be done by the character of the work which President Craig and his colleagues present in the 24th annual report.

## ITALIAN RETROSPECT.

We are indebted to the courtesy of Dr. Angelo Zuccarelli for a number of valuable and interesting monographs witten by himself during the past few years upon various topics of Medico-Legal importance; especially valuable as contributions to the new science of Criminal Anthropology, a field in which Dr. Zuccarelli, is one of the most eminent workers. The following are the books which he has recently sent us: *Programme of the Course of Criminal Anthropology in the University of Naples*, which is preceded by a brief enconium of the "new science," and accompanied by a circular letter recommending the teaching of medical jurisprudence in all the universities; *Paranoia, studied from Clinical and Medico-Legal Standpoints*, consisting of two lectures before the University of Naples on two instructive cases. the first a case of insanity with tendency to crime, the other a case of simulated insanity ; *The Present Evolution of Forensic Medicine and Criminal Anthropology*, an historical essay upon the growth of these two subjects of modern investigation and of their bearing upon each other; *Criminals in the Light of Positive Science Based upon Observation*, a general treatise on the relations between insanity and crime, and on the modification which our increasing knowledge of the former ought to produce in our treatment of the latter; *Medical Experts*, a discourse delivered by Dr. Zuccarelli before the first International Congress of Criminal Anthropology; *Justice on the Right Path*, a eulogy on the Court of Assizes at Naples which acquitted Emilio Caporali, who attempted to assassinate Minister Crispi, on the grounds of insanity; *Thoracic Asymmetry in Epileptic Lunatics*, giving the results of measurements in twenty cases which came under the author's personal observation; *On Degeneration and Delinquency*, a series of recorded cases, with obsevations and remarks by the author, as a contribution to Criminal Anthropology; *Sexual Perversion in Women*, an account of two cases of perverted sexual instinct, (one of them, by the way, precisely similar to that which forms the subject of the well-known novel by Belot, "Madamoiselle Giraud, Ma Femme"); *An Essay on the Permanent Loss of Function following Traumatic Lesions of Nerves*, in which the author reviews what other specialists have written on this topic, and gives an account of his own views as deduced from experiment and clinical observation ; and, finally, a complete file of the *Anomalo*, of which Dr. Zuccarelli is the editor, and whose articles, covering a period of nearly three years, on "anthropological, psychiatric, and medico-legal" topics, we regret not having space enough to review in detail.

We have also to acknowledge the receipt of several praiseworthy monographs by Dr. Giovanni Tonino, the able director of the Fleurent Lunatic Asylum, at Capodichino, whose titles and subjects are as follows: *The Passions and Insanity*, in which the author advocates, or at least suggests, the utility of arousing the passions as a means of curing various kinds of alienation; *Reports of Medico-Legal Experts*, in two criminal trials in which Dr.

Tonino participated, and two *Reports* of the Macerata and of the Fleurent insane Asylums, respectively. W. C. H.

Ex oriente by Edward P. Thwing, M. D., P. H. D. S. W. Parsons & Co., London and New York. (1891.)

This brochure is fruit of Dr. Thwing's visit to the Orient. Asia is luminous to such an inquirer, and he dips into the anatomy of the national life, characteristics, religion, language, literature, and art, with equal zest, interest, and enthusiasm.

Our literature and knowledge would have been the gainer had Dr. Thwing spent a few years more in the East. China and her millions are at our doors, and the practical problems of our relations with Japan and the Orient are the themes which Dr. Thwing touches with a master's pencil in this little book.

Law Reform in the United States and its Influence Abroad, by David Dudly Field.

No man in the legal profession where the English language is spoken is more competent to speak as a master or great teacher than Mr. Field upon this subject at this day. Born shortly after the commencement of the century, his mind and experience goes over all of it since 1824 or 1825, and his comments on the theme date from that period. His paper, last August, in the *American Law Review* goes now to the profession and the world. He traces the growth of the American codes, and shows their influence upon England and her colonies in civil procedure, and then taking up the Code of Criminal Procedure, adopted in 1881, after seventeen years of delay, and not till after eighteen American States had previously adopted it, Mr. Field shows that twenty-three American States have been guided and influenced by New York Legislation on civil procedure, although the civil code prepared for New York has not yet been enacted.

The central idea of Mr. Field is to strip the law and legal procedure of all fictions and cumbrous phrases, to make it simple, plain, direct, and comprehensive, yet capable of being understood by the uneducated mind, and to write it thus in a code accessible to and understood by all.

Our codification in New York has been rather to collect the law as it has existed.

The reform he contemplates is to rid it of all its cumbrous and technical phrases, ideas, and absurdities.

His work has been prodigious. The harvest has been greatest outside his own State.

He is the father of that central thought of law reform, which is expanding, and while all hope that his magnificent health may continue and spare his useful life to see his code adopted in the State of his labors, it may not come till he has passed from among us.

# MAGAZINES.

North American Review. The January number, 1892, is out early, and is one of the best we have ever seen of this interesting journal. Gov. Hill makes his debut as an essayist in an article entitled "The Pardoning Power," which is an able and scholarly paper.

The Counsellor is a new aspirant for a place among legal journals. It is the journal of the New York Law School and edited by Charles D. Maas, Esq., has a large list of contributors from the Bar of this city. S. F. Kneeland, Esq., John F. Baker, Esq., and J. Bleecker Miller, Esq., contribute original papers, and Roger Foster, Esq., writes interesting notes he calls "correspondence."

The Social Economist, edited by George Gunton and Starr Hoyt Nichols, is the organ of the Institute of Social Economics, 126 East 23d street, under the Presidency of George Gunton. This journal, a monthly, commenced in March, 1891. The leading article in the December number is devoted to "A Plan to Improve and Beautify New York City," a subject attracting considerable attention just now, and contains useful hints and valuable ideas.

Frank Leslie's Monthly. The holiday number, (January, 1892,) is a splendid sample of a good family and popular magazine.

Joaquin Miller once wrote for Mrs. Frank Leslie a poem called "Columbus," which she has recited publicly with great effect. She now gives it to the readers of her magazine.

American Law Review. The most interesting paper in the November-December number, 1891, is the history of the First Georgia Code, by Judge Richard H. Clark, of the Circuit Bench of Georgia.

It is illustrated by a fine portrait of ex-Judge Jno. F. Dillon, with a sketch of his career. The notes of the English Bench and Bar, by the London contributer, is a delightful pen picture of the British Judges.

The Arena. The January number, 1892, came out in December. Its frontispiece is a portrait of Walt Whitman. Richard Hodgson contributes a remarkable paper on "Psychical Research and Premonitions." The most thoughtful utterance of the issue is "The Dawning Day," by the editor, O. B. Flower, Esq.

The Journal of Mental Science. The October number, 1891, contains the Inaugural address of Edmond Bancks Whitcombe. M. R. C. S., at the July meeting of the British Medico-Psychological Association, and the announcement of the election of Dr. Robert Baker, for July, 1892.

The journal also contains the report of a committee formulating its opinions under the head of The Care and Treatment of the Insane, in which are grouped 32 distinct propositions, the first nine of which are "Regarding

Insanity Generally;" the next eight, "Regarding Patients in Asylums;" the next eight are "Regarding Special Classes of Patients," and the remaining seven are "Regarding Administration, Staff, etc., of Asylums." The opening paper is an essay by A. Wood Renton, Esq., on the Protection of Medical men under the Lunacy Law of England.

Annales Medico-Psychologiques. This journal is now edited by Dr. Anton Ritti, Superintendent of the Asylum at Charenton, assisted by Dr. Constans, Honorary Inspector General of French Asylums; Dr. Dagonet, Honorary Physician to the Asylums of the Seine; Jules Falret of Salpetriere; Dr. Lamaistre, Honorary Physician at Ville-Evrard; Dr. Motet, Secretary Medico-Legal Society of France, and Dr. Voisin, Physician at Salpetriere, with a distinguished corps of collaborators.

The Chronique is by Dr. Giraud on the Congress of Mental Medicine at Lyon of August, 1891, under the Presidency of M. Bouchereau.

The proceedings of the French Society of Psychology at June and July sessions are given in full, and Dr. Victor Parant continues his Review of the *American Journal of Insanity*, or of articles by American writers therein for the years 1886 to 1889.

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## BOOKS, JOURNALS, AND PAMPHLETS RECEIVED.

Medico-Legal Society of Chicago.—Papers and discussions on "Acute Arsenical Poisoning" before that Society, October 3, 1891.

Robert Newman, M. D.—Electricity in Carcinomâ. (1891.)

Prof. J. Denton.—Trap Siphonage and Trap Seal Protection. (1891.

Carlos F. MacDonald, M. D.—Report on Execution of William Kemler. (1890.)

J. A Fort.—Les Rétrécissements de Uréthre. (1888.)
'l Eecetrolyse Linéaire. (1888.)

French Association for the Advancement of the Sciences.—Information and Documents Divers. (No. 53.)

L. H. Prince, M. D.—Fire Protection of Hospitals for Insane. (1891.)

J. Fletcher Horn.—Legal Relations of Insanity and Crime. (1891.)

Hon. S. Bradford Prince.—The Present and Future of New Mexico. (1891.)

Reed & Carnick.—Food Products. (1891.)

F. Koehler.—Katalog No. 21. (1891.)
Verzeichniss, No. 20. (1891.)

Robert H. M. Dawbarn, M. D.—A Vegetable Plate. (1891.)

Isaac N. Quimby, M. D.—Strangulated Inguinal Hernia. (1887.)
Criminal Use of Chloroform. (1881.)

S. B. Buckmaster, M. D.—Insanity. (1891.)

J. T. Eskridge, M. D.—Fracture of Vertebra and Sequella. (1891.)

Henry A. Riley, Esq.—Who can be Medical Experts? (1891.)

Note.—A large number of contributions are crowded out.

# SKETCHES OF EMINENT ALIENISTS AND MEDICAL MEN.

## WILLIAM B. FLETCHER, M. D., OF INDIANA.

William B. Fletcher was born August 18, 1837, at Indianapolis, Ind., and lived on the farm until the age of 15. His academic studies were completed at the Lancaster Academy, in Massachusetts, where he began the study of medicine. He took his medical course at the College of Physicians and Surgeons of New York, where he graduated October, 1859. His graduating thesis was on the subject of Epilepsy, his inclination leading him then and ever since to the study of nervous diseases. He begun the practice of medicine in his native place in November, 1859; served on the staff of Gens. J. J. Reynolds and Thomas Morris in the West Virginia campaign of 1861; was captured and held prisoner for nine months, and released on parole; became Professor of Physiology in the Indiana Medical College in 1869, and has continued to teach in various departments of medical science to the present time.

During 1882 he served as State Senator from Marion county, and it was largely due to his efforts that three additional hospitals for the insane were provided in the State. June, 1883, he became Superintendent of the Indiana Hospital for the Insane, and continued in the office for more than four years, during which time he constantly fought for the rights of the insane, and bitterly opposed the politcal management of public institutions. December 25, 1883, six months after becoming Superintendent of the hospital, he collected all the mechanical restraints—two hundred crib beds and several wagon loads of belts, wristlets, ankle straps,

leather collars, hand-cuffs, straight-jackets, etc—and, before the assembled multitude of fifteen hundred patients, made a bonfire of the whole collection, while the patients sang "Be Thou, O God, Exalted High." No more restraints were used in the hospital during his administration.

During the year 1885 he opened a training school for attendants, as well as a day school for chronic patients of both sexes, with most encouraging results. Dr. Fletcher also established a Pathological Society for the study of cerebral and nervous diseases. This society was made up of the hospital staff. From material here gained he wrote a monograph upon "Cerebral Circulation in the Insane;" The Influence of the Dura Mater in Causing Pain; Reflex and other Phenomena, when Injured or Diseased;" "Traumatic Epilepsy Cured by Trephining," a report of eight cases; "General Paresis," etc. As the representative from his State for many years to the National Association of Charities he has read many papers in behalf of better treatment of the insane in State institutions. Largely owing to his efforts many important changes have been adopted in other hospitals, notably the introduction of women physicians for female wards, the opening of schools for patients, the training school for attendants, and the abolition of mechanical restraints. Since his retirement from public service he has conducted a private hospital for treatment of mental and nervous diseases, on the "home plan." Dr. Fletcher now holds the chair of Mental and Nervous Disease in the Indiana College of Physicians and Surgeons.

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## SIMON FITCH, M. D.

Simon Fitch, M. A., M. D., Halifax, Nova Scotia, is a son of Simon Fitch, of Walbrooke, Kings county, N. S., and a descendent of the Fytches of Widdington Manor, in Essex, England. He received his professional education in London,

Paris, and the University of Edinburgh, where he was graduated in 1841. In 1871 he introduced an important improvement in the double tubular trocar, and invented the "Dome Trocar" in 1875, the "Clamp Forceps" in 1876, the "Handy Aspirator" in 1877, the "Trocar Catheter" in 1882, and other valuable surgical instruments. In 1841 he was Surgeon to the Maternity Hospital, Edinburgh. In 1864 was surgeon to the 5th Corps Military Hospital, Fredericksburg, Va., and is now a consulting surgeon of the Victoria General Hospital, Halifax. He is Member of Council of the University of Edinburgh, and of many medical societies. He has contributed to the literature of his profession works entitled "Peculiarities of the Great Ovariotomists," "The Present Medical and Surgical Practice of Great Britain," "Paracentesis, Aspiration, and Transfusion," and various papers in the medical and surgical periodicals of America and Great Britain. Sketches of him may be found in "Phycians and Surgeons of the United States," by W. B. Atkinson, M. D., Philadelphia, 1878, and in Appleton's Cyclopedia of American Biography, New York, 1887.

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## ISAAC N. QUIMBY, M. D.

Isaac N. Quimby, M. D., of Jersey City, N. J., member of the American Medical Association, was one of the founders and first chairman of the section of Medical Jurisprudence in that Association; President of Hudson County District Medical Society; Surgeon to City Hospital of Jersey City; active member of the American Public Health Association; member of the Medico-Legal Society of New York; member of Society of Medical Jurisprudence and State Medicine, New York; honorary member of Gynecological Society of Boston; member British Medical Association; member of the American Association for the cure of Inebriety.

He is the author of several important improvements in surgical operations, namely, in 1864, a new mode of treatment of Congenital Talipes without Tenotomy; also a new method of amputation at the ankle joint, being an important modification of M. Pirogoff's operation; also an operation on parallel bones, by which the amputation of a limb may be avoided, etc., etc.

He attended the International Medical Congress in London, 1881, as a delegate, was also delegated to Congress at Copenhagen in 1884, and Washington in 1887.

In 1881 he read a paper before the American Medical Association, giving the results of original experiments, (as an expert in the Smith-Bennet murder case, on the criminal use of chloroform,) in the transferring of a person from a natural to a chloroform sleep without awakening—a fact which had previously been disputed. Mrs. Smith having been condemned to death, the facts brought out by these expriments procured a new trial and saved her life.

Dr. Quimby, from a scientific basis, has been for years a strong advocate of total abstinence from all alcoholic beverages. He was one of the promoters and organizers and is Vice-President of "The American Medical Temperance Association," which was formed at Washington, D. C., in May 1891, with a membership of a hundred medical men.

He received in 1883 the Prohibition nomination for Governor of New Jersey, but was obliged to decline the honor on account of pressure of professional duties.

He is an able speaker, an earnest student, and ranks high in his profession, both as a physician and as a surgeon.

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## CHARLES AUGUSTUS LINDSLEY, M. D., NEW HAVEN, CONN.

Charles Augustus Lindsley was born at Orange, New Jersey, August 19, 1826. Graduated from Trinity College,

Hartford, Conn., 1849. Afterwards took the degree of A. M. from Trinity. Studied medicine at the College of Physicians and Surgeons, New York, and at the Medical Department of Yale University. Received the degree of M. D. from the latter in 1852. Has since been engaged in the practice of medicine in New Haven. Was professor of Materia Medica and Therapeutics in the Medical Department of Yale University from 1860 to 1883, and has been professor of Theory and Practice from 1883 to the present time. Was dean of the Medical Faculty for over twenty years. Was health officer of New Haven during the fourteen years from 1874 to 1888. Was president of New Haven County Medical Association 1875–6, and of the New Haven City Medical Association in 1877. A member of the Connecticut State Board of Health from its organization in 1878 to the present. Has been Secretary of the Board and its executive officer since 1884. In 1887 was vice-president of the American Public Health Association, and in 1890–91 vice-president of the American Medical Association. Was attending physician of the Connecticut State Hospital at New Haven for twelve years succeeding 1864, and secretary of the Hospital Society from 1865 to 1877. Is an honorary member of the New Jersey Medical Society. And is now president of the Connecticut Medical Society, and a corresponding member of the Medico-Legal Society of New York.

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## J. T. ESKRIDGE, M. D., DENVER, COLO.

J. T. Eskridge was born June 1, 1848, in Sussex county, Delaware. Received a common school education while working on a farm. Spent evenings in studying Latin, Greek, and the higher mathematics. Began teaching in a public school at his sixteenth year. Entered a classical institute at Laurel, Delaware, at his eighteenth year. Spent

three years there, when, again returning to teaching in a private school, he prepared a number of pupils to enter college. Entered the Jefferson Medical College in 1872, from which he graduated in 1875. Taught private classes of medical students in physiology from 1876 to 1880. Was elected physician to the Catharine Street Dispensary in 1876, where he gave clinical lectures in medicine for four years. Was Professor of Physiology for four years at the Wagner Institute of the Sciences, Phila. Began to devote considerable time to the study of mental and nervous diseases in 1879. Was elected a Fellow of the College of Physicians, of Philadelphia, in 1881; physician to the St. Mary's and Neurologist to Howard's Hospitals in 1881; post-graduate instructor in Nervous Disease to the Jefferson Medical College and physician to the hospital of the College in 1882. All these positions were held in 1884, when health broke down with pulmonary consumption. Went to Colorado in August, 1884. Remained in Colorado Springs four years, removing to Denver in 1888. Is now Professor of Mental and Nervous Diseases in the University of Colorado, and member of most of the National societies for the study and advancement of neurology, mental medicine, and medico-legal subjects.

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## W. W. HESTER, M. D., OF CHICAGO, ILL.

The subject of this sketch, aged 50 years, was born in Charlestown, Clark county, Indiana. His parents were of Scotch and German nativity. When he was three years of age his parents died, leaving him dependent, which rendered his early life a struggle for an existence and an education. He succeeded, however, in mastering all obstacles, and acquired an academic education, and an advanced knowledge of Latin, Greek, and the higher mathematics. He chose medicine as his profession, and after a four years' course of

study and practice, graduated from the Jefferson Medical College, Philadelphia.

He served in the Federal army from 1861 to December, 1864, as private, adjutant, lieutenant-colonel, and commandant of his regiment. During his war service he was often placed in charge of delicate and important commands. His record as a soldier and officer was commendable and satisfactory. During February, 1865, he received and accepted appointment as first assistant physician to the Indiana Hospital for the Insane, at Indianapolis, and resigned June 4, 1879, on account of poltiical change in the administration of the hospital. He was at once offered the position of first assistant physician at the Southern Illinois Hospital for the Insane, at Anna, which he accepted, and held until March, 1890, when he resigned, after an experience of twenty-five years' hospital work, to engage in general practice in Chicago, Illinois.

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## LOUIS ANDRAL TOURTELLOT, M. D.

The subject of this sketch was born in Greenfield, Saratoga county, N. Y., February 13, 1832. He is descended, in the sixth generation, from Gabriel Tourtellot, of Bordeaux, France, a Huguenot, who fled from his country on the revocation of the Edict of Nantes, and landed in Boston, Mass., in 1688. He prepared for college at the academy in Kingsboro, N. Y., but was compelled by ill health to forego a collegiate education. For several years he was engaged in teaching, and as an assistant editor of a daily newspaper, but at length began the study of medicine with his father, Dr. Freeman Tourtellot, who practiced his profession in Saratoga county for nearly fifty years. He was graduated from the medical department of the University of the City of New York in 1854, and after passing a year in the hospitals and dispensaries of that city, went to

Utica, N. Y., in 1855, to accept an appointment as assistant physician in the State Lunatic Asylum. After holding that position for seven years he resigned, to enter upon private practice in Utica, where he has since resided.

Dr. Tourtellot was married, in 1862, to Elizabeth Hubbard, daughter of Hon. Hiram Denio, LL. D., Chief Judge of the New York Court of Appeals. In 1871 he went to Europe, where he devoted much time, during a two years' stay, to the study of insanity and the care of the insane, visiting many of the asylums of Great Britain, France, Switzerland, and Italy. Since his return to this country, in 1873, he has devoted himself to the specialty of mental and nervous diseases, and is frequently called to testify as an expert in cases of insanity before the courts. As an editor for twelve years of the *American Journal of Insanity*, and as a contributor to the *American Psychological Journal*, the *Journal of Nervous and Mental Disease*, and the *Medico-Legal Journal*, his writings are voluminous. He has labored in the cause of reform in our civil service, and has been especially devoted to the department of lunacy reform. In visiting the English asylums he was impressed with their general superiority, in management and administration, to the asylums of this country, and in particular with the higher character of their attendants, and their disuse of mechanical restraints. The cost of maintenance in them, amounting to not more than one-third the cost in our asylums, seemed also to prove that lavish expenditures are by no means necessary to a humane and successful administration. Indeed, it appeared, from legislative and other investigations, that these large expenditures of State funds by local politicians were largely corrupt, and that corruption was the main source of the abuses so much complained of in our asylums. The remedy suggested for these evils was a State Commission, with full power of control over asylums, after

the model of the British Commissioners in Lunacy. To the success of this reform, in the creation of the present State Commission in Lunacy, Dr. Tourtellot contributed largely, by his criticisms of the false and deceptive financial methods of asylums, and of the false medical and statistical facts which had been brought to their support.

Dr. Tourtellot is a member of the Medical Society of Oneida county, of the Medical Society of the State of New York, and of the Medico-Legal Society.

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## GEORGE B. MILLER, M. D.

George B. Miller was born in the city of Philadelphia on the 28th day of June, 1864. Received his preliminary education at the Central High School, in which institution he remained until 1882, and entered the Medical Department of the University of Pennsylvania, from which he graduated in 1885, receiving "honorable mention" for a thesis upon the "*Post-Mortem Imbibition of Poisons.*" He at once actively engaged in the practice of his profession in his native city after graduation, where he holds a well deserved position, and is a member of the Philadelphia County Medical Society, and of the Medico-Legal Society of New York.

On his mother's side he is a descendant of Wilhelm Rittenhouse, who built the first paper mill in America, in Germantown, and who made the paper used by William Bradford, the first printer during colonial times.

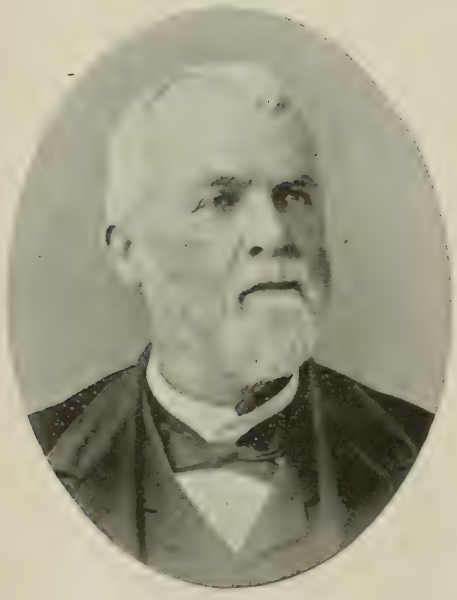
Dr. Miller has already won recognition on the chemical side of his profession, his graduating thesis bringing him into close relations with prominent chemists throughout the world.

He is at the opening of a brilliant career, and is giving early indications of great success in his profession.

## MICHAEL J. B. MESSEMER, M. D.

Michael J. B. Messemer, M. D., was born in New York City on March 30, 1851. He lost his parents on September 13, 1858, by the burning of the Hamburg American Packet Steamship Austria, when he was only seven years old. He received a liberal classical education, and after studying law for two years entered upon the study of medicine, graduating from Bellevue Hospital Medical College, A. D., 1875. He was for ten years surgeon of the 5th Regiment, N. G., S. N. Y., and for fifteen years physician for internal and nervous diseases of the Mount Sinai Hospital. Three years Dr. M. J. B. Messemer has been coroner's physician of New York City, and is still coroner for two years to come, though he has served as such for the past seven years, making three terms as coroner. He speaks many modern languages fluently, and at Washington, D. C., whilst the World's Medical Congress was in progress there in 1887, met and vanquished the most celebrated linguist of that city in Solari's Hotel at a match arranged by the newspaper men of Washington between the two, as to the most languages either could speak. Coroner Messemer has resurrected many sane people from the Insane Asylums of New York State. Dr. Messemer has written many medical articles, some of which, such as the article on the "Dangers Lurking in the Drinking Cups of the Public Fountains" created world-wide attention. Coroner Messemer is a life member of the Medico-Legal Society, and a member of nearly all the medical societies of New York City. He has a large circle of personal friends, is an active member of the New York Press Club, is very influential in political circles in the dominant party, and is at the opening of a career of distinction.

HON. JOHN W. STAYTON.
Chief Justice.



HON. JOHN L. HENRY.
Aosociate Justice.

HON. R. R. GAINES,
Associate Justice.

THE SUPREME COURT OF TEXAS.

# HON. JOHN W. STAYTON.

CHIEF JUSTICE OF THE SUPREME COURT OF THE STATE OF TEXAS.

BY EX-JUDGE A. W. TERRILL, OF AUSTIN, TEXAS.

What to some might seem adverse fortune clouded the early life of the subject of this sketch—he was not born to wealth. In this country, where honors and titles are not hereditary, many who began life poor and friendless have reached distinction, for adversity, though a rough instructor, is a useful one, and better suited to develop manhood than wealth and luxury; but while such examples abound it is believed that John W. Stayton is the only Chief Justice of any State who by just gradations went from the anvil, at which he labored for bread, to the highest judical honor, preserving at each step the confidence of the bar and of the people.

Chief Justice Stayton was born in Washington county, Kentucky, Dec. 24, 1830. His father died when he was a child. After he had acquired a common school education, he began at the age of seventeen to learn the blacksmith trade, at which he labored until he was twenty-one years old. He then resumed his scholastic studies, and when twenty-four years old began the study of law; graduating in the University of Louisville in March, 1856. In that year he married Miss Jennie Weldon.

His professional career began in Texas in 1856, and was continued with brilliant success at the bar, except when interrupted by the Civil War, until 1881, when he was appointed

by the Governor of the State Associate Justice of the Supreme Court.

He joined the Confederate army as a private, but was soon elected Captain, and served in that capacity to the close of the Civil War. As a soldier he enjoyed always the confidence alike of his men and superior officers. Left pennyless when peace was restored, he taught school for a support, while the Courts were practically closed, until 1866, when he resumed the practice of law. He was elected Associate Justice of the Supreme Court in 1882, and in 1884 declined a nomination for Congress, at a time when it is believed he would have been elected almost without opposition. The leading lawyers of the State had requested him to remain on the Supreme Bench.

In 1888 he was appointed Chief Justice of the Supreme Court, on the resignation of Chief Justice A. H. Willie. In the same year he was elected Chief Justice by the people by the largest vote ever given a candidate for the Supreme Bench. While engaged in the practice of his profession he learned the Spanish language, and studied the civil law and the land laws of Mexico, a knowledge of which is requisite to the investigation of land titles in Texas originating prior to the revolution of 1836.

Before his election to the Bench, Judge Stayton had been twice elected District Attorney of the eighteenth Judicial District, serving from 1858 to 1862, and was a member of the Constitutional Convention of 1875, which framed the present State Constitution. The judiciary article then adopted, the defects in which are now so apparent to all lawyers, was earnestly opposed by him. He was ably sustained in that opposition by Judge Ballinger. The economic features of the Constitution, restrictive of the taxing power, have so popularized it as to render changes difficult. The judiciary article was, after much discussion in committee,

reported to the Convention by the Hon. John H. Reagan, with the declaration that it was the compromise product of conflicting views, and that it was discovered after agreement to report it that it did not meet the approval of any member of the committee.

Judge Stayton possesses, in an eminent degree, a capacity for much intellectual labor. After successive terms of Court, lasting from October until June, he appears almost as fresh as when the fall term began. This is due to a sturdy and compact physical organization, which was in early life enured to toil, no less than to his calm mental temperament. Though now over sixty years of age, his appearance is that of a man of forty. This is a result chiefly of his methodical habits while engaged in professional labor. Singularly gifted in capacity for concentrating all his powers of thought, his work, though systematic, is rapid, and he permits no official business to deprive him of all the rest needed to refresh the mind for another day of toil. An examination of the twenty-four volumes containing his opinions will show the herculean labor performed by him during his ten years' service on the Bench.

Among his qualifications as a jurist must be named an amiable temper and manner, in which sustained dignity is softened by a pleasing address. While courteous to all who come in contact with him, his bearing is such as to effectually check unbecoming familiarity.

Unsullied purity of character has, by the judgment of the Bar of Texas, been accorded to all her Supreme Judges, who were either elected by the people, or appointed under a Constitution made by them.

Judge Stayton's memory is remarkable, and his lucid verbal statement of the most complicated case, made before reading his opinion, always informs the opposing counsel that the case has received careful study. This was also a

marked characteristic of Chief Justice Moore. Perhaps the ablest opinions of Judge Stayton are those rendered on questions of first presentation in Texas, about which the views of other Courts were in conflict. Then his clear reasoning, which seems to exhaust the question from every standpoint, leaves small hope for a re-hearing. In no instance has the Court ever overruled one of his opinions, delivered under such circumstances. This, considering his long service upon the Bench, is perhaps one of the highest tributes that could be accorded him as a jurist.

A keen perception of natural justice will be found apparent from those of his opinions in which equity is made to modify, lighten, or qualify the rigor of the law. No one who ever practices in his court ever doubts that an ardent solicitude to mete out justice inspires all his judicial actions. His style as a writer is vigorous and clear. On questions of importance he is more prone to meet with reason than authority the positions assumed by the unsuccessful litigant. The symmetry of his character is indicated by a manner and bearing which makes him a pleasing companion and harmonizes with his exalted office. He is always calm, dignified, and reflective, without being austere. That stilted dignity, which sometimes afflicts vain, small men after their elevation to the Bench, is never seen in this man, whose singular and successful career and high character as a judge renders it difficult, while he yet lives, to write of him as he deserves.

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NOTE.—The scope and importance of Judge Stayton's work is manifest from the following from his opinions:

*Constitutional Provisions, Statutes, etc., relating to Railroad Companies:*

S. A. & A. P. R'y Co. *v.* The State, 79 Tex., 264.

Eddy & Cross, Receivers, &c., *v.* Rder, 79 Tex., 53.

G. H. & S. A. R'y Co. *v.* The State, 77 Tex. 410., dissenting opin.

Texas P. R'y Co. *v.* Johnson, 76 Tex., 421.

Texas P. R'y Co. *v.* Overheiser, 76 Tex., 437.

G. C. & S. Fe R'y Co. *v.* Baird, 75 Tex., 256.

I. & G. N. R'y Co. *v.* The State, 75 Tex., 375.
E. L. & Red River R'y Co. *v.* The State, 75 Tex., 434.
M. P. R'y Co. *v.* Harris, 67 Tex., 166.
I. & G. N. R'y Co. *v.* Smith County, 65 Tex., 21.

*Duties and Liabilities of Railway Companies:*

Texas & P. R'y Co. *v.* Geiger, 79 Tex. 13.
G. C. & S. Fe R'y Co. *v.* Wilson, 79 Tex., 371.
Texas & P. R'y Co. *v.* Miller, 79 Tex., 78.
Eddy & Cross, Receivers, &c. *v.* Harris, 78 Tex., 661.
G. C. & S. Fe R'y Co. *v.* Levi, 76 Tex., 376.
M. P. R'y Co. *v.* Richmond, 73 Tex., 568.
E. L. & Red River R'y Co. *v.* Scott, 72 Tex., 70.
M. P. R'y Co. *v.* Shuford, 72 Tex., 165.
M. P. R'y Co. *v.* Mitchell, 72 Tex., 171.

*Municipal Charters, Liabilities, etc.:*

Madry *v.* Cox, 73 Tex., 538.
Harness *v.* The State, 76 Tex., 567.
State *v.* Dunson, 71 Tex., 66.
Voorhies *v.* Mayor of City of Houston, 70 Tex., 331.
Waterbury *v.* City of Laredo, 68 Tex., 565.

City of Brenham *v.* Brenham Water Company, 67 Tex., 542, a leading case, followed in other States.

*Arrest Without Warrant.*—Morris *v.* Kasling, 79 Tex., 141.

*Mining Rights—Forfeiture.*—Benevides *v.* Hunt, 79 Tex., 383.

*Wills.*—Smithwick *v.* Kelly, 79 Tex., 564.

*Libel.*—Kuohn *v.* Young, 78 Tex., 344.

*Official Misconduct.*—State *v.* Alcorn, 78 Tex., 387.

*Forfeiture of Franchise by Misuse.*—State *v.* Morris & Cummings, 73 Tex., 435.

*Void Grant Entitled to Protection of the Constitution Prohibiting Location of Land Certificates upon Lands Titled or Equitably Owned.*—Winsor *v.* O'Connor, 69 Tex., 571.

*Public Domain.*—Greer County, Day L. & C. Co. *v.* State, 68 Tex., 526.

*Location of County Seats.*—Coruthers *v.* State, 67 Tex., 132,

*Assessments for Street Improvements.*—Texas Tr. Co. *v.* Boyd, 67 Tex., 153.

*Urban Homestead Defined.*—Wynne *v.* Hudson, 66 Tex., 1.

*Incompatible Offices.*—State *v.* Brinkerhoff, 66 Tex., 45.

*Venue in Suits to Quiet Title.*—Thompson *v.* Locke, 66 Tex., 383.

*Sale of School Land, Land Fraud Act.*—State *v.* Snyder, 66 Tex., 687.

*Town Grants in Spanish Provinces.*—Ditmar *v.* Dignowitty, 78 Tex., 23.

*Unorganized Counties.*—State *v.* Cook, 78 Tex., 406.

*Sale of Perishable Property when in Custody of the Law.*—Betterton *v.* Eppstein, 78 Tex., 443.

*Vendor's Right to Rescind Sale of Land.*—Huffman *v.* Mulky, 78 Tex., 557.

*State Demand in favor of Equitable Title in Defendants in Possession of Land.*—Frost *v.* Wolf, 77 Tex., 455.

*Division of County into two Judicial Districts.*—Lytle *v.* Half & Bro., 75 Tex., 128.

*Quo Warranto, to Set Aside an Election.*—Hunnicutt *v.* The State, 75 Tex., 234,

*Homestead in Excess of Exempt Value.*—McLane *v.* Paschal, 74 Tex., 20.

*Boards of Equalization, their Duty and Power.*—Duck *v.* Peeler, 74 Tex., 268.

*Mexican and Spanish Land Grants Protected by the Constitution of the United States against the Conditions Placed upon their Use, &c., by the Texas Constitution.*—74 Tex., 370, Texas-Mexican R'y Co. *v.* Locke.

*Land Fraud Act.*—Randolph *v.* State, 73 Tex., 485.

*Constructive Service, Appearance to Except to Service operating under the Statute as Appearance to next Term.*—York *v.* State, 73 Tex., 651.

*School Land, while owned by the County, not Subject to Taxation.*—Daugherty *v.* Thompson, 71 Tex., 192.

*Land Board Could Lease School Lands, Construction of Land Board Act* —Smisson *v.* State, 71 Tex., 222.

*Void Locations of Land, Mistake in Locality leading to the Filing upon Land not Intended* —Adams *v.* R'y Co., 70 Tex., 252.

*Attachment Suit against Non-Resident, Amendment after Citation by setting up an Additional Money Claim.*—Stewart *v.* Anderson, 70 Tex., 588.

*Archives in Land Office, Spanish Grant* —Texas-Mexican R'y Co *v.* Jarvis, 69 Tex., 527.

*Jurisdiction of District Court—Does not Extend to Ordering Sale of Property of a Minor for the Purpose of Re-investing.*—Messner *v.* Giddings, 65 Tex., 301.

*Measure of Damages for Breach of Warranty of Title to Land.*—Brown *v.* Hearon, 66 Tex., 63.

*Retroactive Laws.*—Mellinger *v.* City of Hearn, 68 Tex., 37.

## HON. JOHN L. HENRY.

### ASSOCIATE JUSTICE OF SUPREME COURT OF TEXAS.

BY JUDGE A. T. WATTS, OF DALLAS.

Associate Justice John L. Henry is a native of Culpepper county, Virginia, where he was born October 18, 1831, but was reared and educated in Rutherford county, Tennessee, where he resided until 1852, when he settled in Texas. He studied law at Huntsville, and was there admitted to the Bar

in 1856. The same year he settled at Livingston, Polk county, and there commenced his professional life. Judge Henry was from the first noted for his temperate and studious habits, and promptly took rank as a leading lawyer in southeast Texas, where he enjoyed a large and lucrative practice and the entire confidence of the people. He was elected District Attorney of the Fifteenth Judicial District in 1860, and faithfully discharged the duties of that office.

In 1860, in Rutherford county, Tennessee, he was married to Cornelia, the daughter of Henry D. Jamison. She happily still survives.

In 1862 he entered the Confederate States service as an officer in the 20th Regiment of Texas Infantry, and served as such until the close of the war.

He resumed the practice of his profession in 1865, and enjoyed a large and lucrative practice in Polk and adjoining counties, where he was esteemed not only as a leading attorney, but also as an invaluable citizen. In 1868 he faithfully served his section by inducing the white voters to go to the polls and exercise the right of suffrage. At that time, on account of the apathy of the whites, the colored voters dominated the county, but owing to the faithful and earnest work of himself and others, the white voters were induced to take an interest in the matter, and that interest has never lapsed.

Formerly Judge Henry was an eloquent and magnetic speaker, not unfrequently having the Court, jury, and spectators in tears.

In 1869 he settled at Tyler, where he engaged in the practice for about ten years, during which time, however, he served as State Senator in the thirteenth Legislature, and, as Chairman of the Judiciary Committee, participated in all the important legislation of that long session, and proved himself an efficient law maker, and, with the majority, he voted himself out of office for the purpose of securing a just apportionment of the State.

In 1875 he was elected a delegate to the convention which framed the State Constitution. He was chairman of the committee which had charge of formulating that portion of the Constitution which relates to the legislative department of the State. That the work of his committee was well and faithfully done is evidenced by the fact that no serious complaint has ever been made against any of the provisions of the Constitution relating to that department.

He settled in the city of Dallas in 1879, where he has since resided. Until 1888 he was actively engaged in the practice both in the State and Federal Courts, and was generally esteemed as a leader of the Bar in North Texas.

In 1888 he was elected Associate Justice of the Supreme Court, since which time his labors have become more emphatically a part of the judicial history of the State. He has participed in the decision of many important cases. His opinions show great care, broad and comprehensive thought, and profound learning. He is an unassuming man, and while reticent and retiring in manner, is exceedingly charitable, kind, and hospitable. In religion he is a Baptist; in politics, a Democrat.

## R. R. GAINES.

ASSOCIATE JUSTICE OF SUPREME COURT OF TEXAS.

BY JUDGE A. S. WALKER, OF AUSTIN.

Associate Justice R. R. Gaines was born in what is now Choctaw county, Alabama, Oct. 30, 1836. He entered the University of Alabama in 1852, and there graduated—taking the degree of A. B.—July, 1855.

He studied law at Cumberland University, Lebanon, Tenn., and took the degree of LL. B. in 1857. In March, 1858, he was admitted to the bar.

He remained in Alabama practicing his profession until 1861, when he entered the Confederate army. He remained in the service through the war, was surrendered and paroled at its close with Gen. Joseph E. Johnson's command. At his parol he was Assistant Adjutant-General of Allen's Division of Cavalry.

He came to Texas in 1866, and settled at Clarksville, Red River county, practiced law at that place until 1876, when he was elected Judge of the Sixth Judicial District. He was re-elected in 1880, and in 1885 he voluntarily returned to the practice.

In 1886 he was appointed (after having been nominated) Associate Justice of the Supreme Court, to succeed Judge Robertson, was elected the same year, and re-elected in 1888.

Much of the important work of the Court after his accession to it, has been performed by Judge Gaines. Opinions in many leading cases have been delivered by him. While it is understood that no case is decided except upon full consideration and discussion by all the members of the Court, still, as a general rule, the preparation of the opinion is the work of the judge delivering it. The analysis of the facts, the elimination of the issues, and the array of the propositions leading to and supporting the conclusions reached by the Court, are the work of the individual.

In Brown *v.* Edwards, 68 Tex., 329, delivered by him soon after his appointment, Texas land titles were furnished a basis of certainty long desired.

In the recent case of McIlhenny *v.* Binz, 80 Tex., 1, the marshalling of claims against railroad companies in hands of receivers was exhaustively discussed. The rules are clearly enunciated, and have the vigor of demonstration and the force of a legislative act.

He also has brought the powers of his analytical mind to the solution of many vexed questions of the law, arising in

suits for damages caused by negligence of corporations. So far as he has gone, his work tends to banish uncertainty and to reduce the law into a system.

Judge Gaines' life work has been divided between the Bar and the Bench in a manner conducing to that mental symmetry so desirable in a judge. He was at the Bar long enough to acquire a practical knowledge as an advocate and practitioner. While young, and before the spirit of advocacy had fixed itself as a habit, he was called to the district Bench, where the judicial mind finds its best sphere of vigorous growth. Thus prepared and well-equipped for its duties, he was called to the Supreme Bench when still a young man. His subsequent career has added to his reputation and developed his character. He has earned, and now enjoys, the confidence and respect of the Bar and of the entire State as a scholar and a jurist.

## JUDGE JOHN PRESTON WHITE.

PRESIDING JUDGE TEXAS COURT OF APPEALS.

BY SAM A. WILLSON.

John Preston White was born at Fruit Hill, near Abingdon, Virginia, on March 7, 1832. His father, James L. White, a merchant, was a native of the same place. Judge White had good educational advantages. He graduated at Emory and Henry College in 1850, and won the Robertson prize medal for proficiency and accomplishments in oratory. After graduating at Emory and Henry College he entered the University of Virginia in the fall of 1850 as a student of moral philosophy and law. He received certificates of proficiency in both these studies at the intermediate examination, but because of severe sickness was compelled to retire from the University before the final examination. He after-

wards studied law under the instruction of Samuel Logan, a distinguished lawyer, and at that time Commonwealth's Attorney for Washington county, Virginia. In August, 1853, he was licensed to practice law. In the same year he married Miss Annie Stewart Lewis, of Charlottesville, Virginia. In 1855 he came to Texas, and located at Seguin, in Guadalupe county, and entered upon the practice of his profession in co-partnership with Thomas M. Logan, son of his preceptor, Samuel Logan. He soon established a reputation as a lawyer of ability and probity, and in a short while commanded a large and lucrative practice. In 1874 he was appointed by Governor Coke judge of the 22d Judicial District, in which position he served with distinction until 1876, when he was elected one of the three judges of the Texas Court of Appeals, a new court created by the Constitution of 1876. In 1879, upon the death of Judge Ector, the first Presiding Judge of said court, Judge White was selected to fill that position. He has since been twice re-elected a judge of said court, and twice re-chosen its presiding judge, which position he now occupies.

Judge White is blessed with remarkable physical and mental strength and vigor. His person is commanding, and his manner is genial, dignified, and polite. He is affable and courteous to all, and fond of social intercourse. Gifted with superior conversational accomplishments, he is a most entertaining and pleasant companion. But, unlike most men of a social disposition, he never permits any pleasure to interfere with his official duties. He is a diligent, almost constant, worker in the discharge of his judicial duties. The writer of this asserts, without the fear of successful contradiction, that during the time Judge White has been upon the bench of the Court of Appeals, he has lost less time from duty, and performed more arduous work, participated in the decision of more cases, and written more opin-

ions, than any other judge in this or any other State. While he disposes of a vast amount of judicial work in a short time, he gives to every case a careful and thorough investigation and consideration. His decisions are not mere guesses at the law, but are the result of a close examination of the facts, and of the law applicable thereto. His written opinions show that he consults precedents exhaustively, and applies them with a judicial discrimination rarely equalled. He is a fluent, forcible, and scholarly writer. He rarely ever re-writes an opinion, and yet his opinions, for elegance of diction, clearness of expression, and strength of reasoning, will compare with those of any jurist who has occupied the bench in this State.

A rare advantage possessed by Judge White is a phenominal memory. He never forgets a fact, or a principle of law which once comes to his attention. Whatever he reads or hears he remembers distinctly, accurately, and permanently. Of the thousands of cases, civil and criminal, which he has participated in deciding, he remembers, and can readily state, not only the questions involved and decided in each case, but the facts, and the names of the parties and their counsel, and the volume of the report in which the case is to be found. He never forgets the names or faces of persons with whom he becomes acquainted, even by a casual meeting. His remarkable memory, in conjunction with his scholarly and judicial acquirements and his methodical system of work, enables him to dispose of cases submitted for his decision with great dispatch, and at the same time with accuracy.

Judge White's judicial opinions are embraced in the twenty-nine volumes of the Court of Appeals Reports, and in the four volumes of the Reports of Civil Cases decided by said court. The first volume of the Civil Cases was compiled by him, assisted by Judge Willson.

Judge White has always been a Democrat in politics, but has never sought or held any political office. Had his aspirations been in that direction, his ability and popularity would doubtless have placed him in high political position.

At the commencement of the late war he entered the Confederate service as Captain of a company in the Sixth Regiment of Texas Infantry, and served until the close of the war.

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## JAMES MANN HURT.

ASSOCIATE JUDGE TEXAS COURT OF APPEALS.

BY SAM A. WILLSON.

James Mann Hurt was born in Carroll county, Tennessee, December 15, 1830. His father was a Baptist clergyman. His mother was a daughter of David Marshall, of Richmond, Virginia. He was educated principally at Bethel College, and graduated in law at Cumberland University in 1857, and was licensed to practice law by the Supreme Court of Tennessee. In 1858 he married Miss Matilda L. Douglass, of Osceola, St. Claire county, Missouri, and began the practice of law at that place, but soon thereafter removed to Sherman, Texas. He enlisted in the service of the Confederate States as Captain of a conpany of infantry, which formed a part of Maxey's Brigade. He served with his company until the close of the war. He was a member of the Constitutional Convention of 1866. He was appointed by Governor Throckmorton District Attorney, which office he resigned in 1867, because he could not take what was called the "iron-clad" oath required of Southern officials at that time. In 1870 he was again appointed District Attorney by Governor Davis, with the understanding that his

political principles, which were Democratic, should be unrestrained. In 1871, however, he was removed from office to make place for a Republican. In 1876 he removed to Dallas, Texas. In 1880 he was elected one of the judges of the Texas Court of Appeals, and in 1886 he was re-elected, and still continues in that office.

At the bar Judge Hurt has always occupied the front rank, especially as a criminal jurist and advocate. He was strong in the prosecution of criminals, and equally able and successful in defense. He is thoroughly grounded in the principles and reasons of the law, and this knowledge, together with his quick and clear conception, and logical habit of thought and expression, enables him to arrive at correct conclusions, and to present them plainly and forcibly. His opinions are usually short, but they are pointed and clear, and he prefers to support his views by reason rather than authority. His opinions are embraced in Vols. 9 to 29, inclusive, of the Texas Court of Appeals Reports, and in the four volumes of Court of Appeals Civil Cases.

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## WILLIAM L. DAVIDSON.

ASSOCIATE JUDGE TEXAS COURT OF APPEALS.

BY SAM A. WILLSON.

William L. Davidson was born near Coffeeville, in Yallabusha county, Mississippi, on November 5, 1845. His father, Asbury Davidson, was a Methodist minister of distinction, a native of Shelbyville, Tennessee, and his mother, who was a native of Murray county, Tennessee, was formerly Miss Mary M. Fly. His father and family removed from Tennessee to Texas in 1851, and settled on the Guadalupe river, near the town of Gonzales, in Gonzales county. He

acquired his literary education at Gonzales College and at Stonewall Institute. In 1862 he entered the Confederate service in Company H, of Cook's Regiment of Artillery. He afterwards served in Wood's Regiment, 32d Texas Cavalry, Company B. Although a mere boy during the war he made a gallant and efficient soldier, and was noted for his daring and endurance. At the close of the war he returned to his home and entered the Stonewall Institute to complete his education, but his health was so greatly impaired by the hardships and exposures he had undergone in the army he was compelled in a short while to abandon his studies and pursue a more active life. On December 22, 1870, he was married to Miss Sue B. Howard, of Gonzales, Texas, the accomplished daughter of Dr. William H. Howard. In 1871 he was licensed to practice law, and began the practice in Gonzales. He at once took position in the front rank of the profession, and his practice was soon extensive and lucrative. In 1887 he was appointed by Governor Ross Assistant Attorney-General, and in 1889 he was re-appointed by Governor Ross to the same position. He served in this important office with marked ability and success. In February, 1891, he was appointed by Governor Hogg Judge of the Court of Appeals, to fill a vacancy occasioned by the resignation of Judge Willson, and he is now serving in that office. He now resides at Georgetown, Texas, to which place he removed for the purpose of educating his children at the Southwestern University.

Judge Davidson is energetic, industrious, pains-taking, and conscientious in the discharge of every duty devolving upon him. He is a close student, diligent and persistent in his inquiries after truth. He is now in the prime of life, and, blessed as he is with a vigorous body and mind, his ability and experience as a lawyer and jurist promise much for his future.

Judge Davidson is a staunch Democrat, but has never allowed politics to allure him from his profession. He is a consistent and devoted member of the Methodist church, practicing in his daily life the principles of Christianity. He is genial, pleasant, and courteous in his deportment, and popular wherever known.

## JUDGE MATTHEW DUNCAN ECTOR.

### TEXAS COURT OF APPEALS.

Mathew Duncan Ector was born in Putnam county, Georgia, on the 28th day of February, 1822. He was educated at Lagrange, Georgia, and at Centre College, Kentucky. He was admitted to the bar and began the practice of law in his native State in 1844. In 1846 he was elected a member of the Legislature of that State, and served as such. In 1849 he removed to Texas, and located at Henderson, in Rusk county. In 1855 he was elected to and served in the Texas Legislature. In 1861 he entered the Confederate army as a private, and was soon thereafter appointed adjutant on the staff of General Hogg. He was promoted to a colonelcy for gallantry on the field, and soon thereafter was made a Brigadier-General. In a battle near Atlanta, Georgia, on July 28, 1864, he was wounded, the wound necessitating the amputation of his left leg. After the close of the war he returned to the practice of his profession. In 1866 he was elected District Judge of his district, from which office he was soon after removed by the United States Military Commander Reynolds. In 1867 he removed to Marshall, in Harrison county. In 1874 he was appointed District Judge by Governor Coke. In 1875 he was elected one of the judges of the Court of Appeals, and, upon the organization of that court in 1876, he was chosen by his associate judges

the presiding judge of the court, which position he held at the time of his death, which occurred at Tyler, Texas, October 29, 1879.

Judge Ector married three times. His first wife was Miss Louisa Phillips, of Georgia, who died in 1848. In 1851 he married Miss Letetia M. Graham, who died in 1859. In 1864 he married Miss Sallie P. Chew, who survived him.

When not occupying official position Judge Ector devoted himself to his profession, and commanded an extensive practice. He was a profound lawyer and an effective advocate. His high sense of honor and sterling integrity, together with his affable bearing and goodness of heart, caused all who knew him to love and honor him.

His judicial opinions while upon the Court of Appeals bench are embraced in the first seven volumes of the reports of that court, and in Vol. 1, Court of Appeals Civil Cases.

## JUDGE CLINTON McKAMY WINKLER.

TEXAS COURT OF APPEALS.

Clinton McKamy Winkler was born in Burke county, North Carolina, on the 19th day of October, 1821. In 1840 he settled in Robertson county, Texas. In 1844 he was elected Clerk of the District Court for that county, in which office he served until 1846. He was admitted to the bar in 1845. In 1848 he removed to and located in Corsicana, Navarro county, Texas, and was during the same year elected to and served in the Legislature. In 1861 he entered the Confederate Army as captain of a company in the Fourth Texas Regiment, Hood's Brigade. He afterwards, toward the close of the war, became Colonel of his regiment. He was severely wounded at the battle of Gettysburg. At the termination of the war he resumed the practice of the law at

Corsicana. In 1876 he was elected one of the judges of the Court of Appeals, which position he held at the time of his death. He died at Austin, Texas, on the 13th day of May, 1882.

Judge Winkler was twice married. His first wife, Miss Louise Smith, whom he married in 1848, died in 1861. In 1864 he married Miss Angie V. Smith, at Richmond, Va. She survives him.

Judge Winkler was beloved by all who knew him. He was a pure man, a gallant soldier, an able and conscientious lawyer and jurist. His record is without blemish.

His judicial opinions are embraced in the first twelve volumes of the Texas Court of Appeals Reports, and in Vol. 1, Court of Appeals Civil Cases.

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## GEORGE CLARK.

EX-ASSOCIATE JUDGE TEXAS COURT OF APPEALS.

BY SAM A. WILLSON.

George Clark was born in Eutaw, Alabama, July 18, 1841. His father, James B. Clark, a native of Pennsylvania, and by profession a lawyer, located in Alabama in 1822, where for many years he was a distinguished Chancellor. His mother was formerly Mary Erwin, a native of Virginia. He was educated mainly at the University of Alabama. In 1861 he abandoned his studies and enlisted in the Confederate service as a Lieutenant in the Eleventh Regiment of Alabama Infantry, and in 1862 was promoted to the rank of Captain. He participated in all the great battles in which the Army of Northern Virginia was engaged, and was three times wounded. At the close of the war he returned to his native State, and in 1866 was admitted to the bar, and began

practice at Eutaw. In 1867 he removed to and located in Weatherford, Texas. In 1868 he removed to and located in Waco, Texas, where he has ever since resided. In 1874 he was temporarily Secretary of State, and was during the same year made Attorney-General, which position he held until 1876. He was then appointed by Governor Coke one of the Commissioners to revise the Statutes of the State, and served in that capacity two years. In 1879 he was appointed one of the judges of the Court of Appeals, which position he resigned in October, 1880.

When not in official position, Judge Clark has always commanded a large and lucrative practice, and at the present time he is engaged in more important causes, both civil and criminal, than any other lawyer, perhaps, in the State. He is justly regarded as one of the brightest legal lights in the United States. His judicial opinions, which are reported in Vols. 7, 8, and 9 of the Texas Court of Appeals, and in Vol. 1 of Appeal Civil Cases, are judicial models—clear, concise, chaste, and strong.

In politics Judge Clark is, and has always been, a Democrat. He has never sought or held any political office, and is not a politician in the common acceptance of that term. He is, however, a recognized leader of his party, and is regarded as one of the safest, ablest, and soundest statesmen in the South.

In the prime of life, with an untarnished and brilliant reputation, possessing the confidence of the people, blessed with vigorous physical health and great mental capacity, and financially independent, there is no official position within the gift of the people which he may not reach should he ever again desire to hold public office.

# EX-JUDGE SAMUEL A. WILSON.

## TEXAS COURT OF APPEALS.

Samuel A. Willson was born in San Augustine county, Texas, January 9, 1835. His father, Dr. Stephen Pelham Willson, a native of the State of New York, settled in said county in 1831. His mother was a native of Georgia, her maiden name being Mary Richardson Davis. In 1848 his father and family removed to and settled in Tyler county, Texas. When fifteen years of age he began the study of law, and at the age of seventeen years was licensed to practice law by authority of a special act of the Legislature. He read law in the office of the Hon. M. Priest, at Woodville, Tyler county, Texas, whose daughter, Susan E., he married in 1853. In 1856 he was elected District Attorney of his district, and, in 1858, was re-elected to the same office. In 1861 he enlisted in the Confederate service as first lieutenant of Company F. of the first Texas regiment, and was afterwards captain of said company. His regiment constituted a portion of the famous Hood's Texas Brigade. He was severely wounded at the battle of Sharpsburg. After the close of the war he resumed the practice of the law at Woodville, Texas. In 1866 he was elected District Judge of his district, in which position he served until 1868, when he resigned and removed to Rusk, Cherokee county, Texas. In 1869 he was elected District Attorney for the district in which he had recently located, and served in that position until 1870. In 1879 he was appointed by Gov. Richard Coke one of the Commissioners to revise the statutes of the State, and was engaged in that work two years. In 1882 he was appointed by Gov. O. M. Roberts an Associate Judge of the Court of Appeals, to fill a vacancy occasioned by the death of Judge C. M. Winkler. He was thereafter twice elected to

the office, resigning the same February 1, 1891. Soon after his resignation he was appointed by the Court of Appeals its reporter, which position he now holds, and is also engaged in the practice of the law with his son, Samuel P. Willson, at Rusk, Texas. He is the author of several law books, that is—1. Four volumes of Condensed Reports of the Civil Decisions of the Court of Appeals, the first volume being the joint work of Judge John P. White and himself. 2. A volume of Criminal Forms adapted to the Criminal Codes of the State, and, 3. The Criminal Statutes of the State, annotated. These books have had a very large sale, and have proved to be convenient and valuable to the bench and bar of the State.

His judicial opinions are embraced in Vols. 12 to 29, inclusive, of the Texas Court of Appeals Reports, and in the four volumes of the Court of Appeals Civil Cases.

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## JUDGE C. C. GARRETT.

PRESIDING JUDGE, SECTION B., SUPREME COURT COMMISSION OF APPEALS.

C. C. Garrett, the son of O. H. P. Garrett, was born February 3, 1846, in Washington county, Texas. His father, whose ancestors, since before the Revolutionary war, had settled and resided on Warrior's Creek, in Lauren's District, South Carolina, left his native State and settled in Texas in 1838. His mother was the daughter of Rev. Hosea Garrett, a Baptist minister, and was a cousin of her husband. O. H. P. Garrett was a farmer and land surveyor, and his son was reared upon a farm.

After the ordinary attendance on "old field" schools, and two years spent at the College in his county, young Garrett, in September, 1866, entered Washington College, at Lexing-

ton, Va., which was presided over at the time by Gen. R. E. Lee, and is now Washiugton and Lee University, and graduated from that school in June, 1869, with the degrees of A. B. and B. P., receiving the College prize oration, awarded as the best written oration on competition open to the whole school. He attended law lectures in connection with Baylor University, Texas, and was admitted to the bar in February, 1871, and continued in the practice of his profession at Brenham, in his native county, until November, 1888, when he was elected judge of the 21st judicial district, and while on the district bench he was appointed, May 2, 1891, by Governor Hogg as one of the three additional judges on the Commission of Appeals, as provided for at the then recent session of the Legislature.

Judge Garrett has always been a warm advocate of the public free schools, and assisted in the organization of the graded school system of Brenham. He was counsel for the city in the tax legislation arising therefrom. In August, 1886, he was appointed by Governor Ireland as a member of the Board of Directors of the Agricultural and Mechanical College of Texas, and became President of the Board in May, 1887. He resigned this position on his election as district judge.

Judicial duties are congenial to his tastes, and he is conservative in his views and tolerant of the opinions of others. He is an ardent Democrat, and while he has always taken a deep interest in political canvasses, he is not a popular speaker, nor has he ever sought or held a political office.

# JUDGE D. P. MARR.

TEXAS COMMISSION OF APPEALS.

Donald Phelps Marr was born October 27, 1855, in the town of Eldorado, Union county, Arkansas. He was educated at Gordon's Institute, in his native county, near Lisbon, taking a course in English literature, mathematics, ancient languages, etc. He taught a public free school in 1872–3. In February, 1874, he removed to Texas, and settled at the State Capitol (Austin.) He studied law and was admitted to the bar there in 1875, his disabilities of minority having been removed for that purpose. The same year he located in the practice of his profession at Pleasanton, Atascosa county, Texas. He was elected to the 17th legislature November, 1880, from Atascosa, Wilson, San Patricio, Kansas, and Lake Oak counties, (comprising the district.) He resigned and was appointed July 4, 1881, District Judge of the 36th district, composed of eight counties. He was elected for four years to that office, in November, 1882, and re-elected in 1886 and 1890. He resigned and was appointed by the Governor in February, 1891, a judge of the Commission of Appeals. He is a Democrat. His parents are Hugh D. and Virginia E. Marr, *nee* Tobins.

# HON. THOMAS EWING.

EX-CHIEF JUSTICE KANSAS SUPREME COURT.

General Thomas Ewing, the first Chief Justice of the Supreme Court of Kansas, was born at Lancaster, Ohio, August 7, 1829, and was the third son of that eminent lawyer, Thomas Ewing, whose name he bears, and who held high positions in the government of this country. Through this influence he was, at the early age of nineteen, made Secretary of the Boundary Line Commission between Ohio and Virginia, and was shortly after made Private Secretary to President Zachary Taylor. He graduated at Brown University, Rhode Island, in 1854, and at the Cincinnati Law School in 1856. He went to Leavenworth, Kansas, and began the practice of the law in the firm of Sherman, Ewing & McCook, the senior being General Sherman, then an ex-captain of the regular army.

Judge Ewing took an active part in the political contentions of Kansas on the Republican side, as well as in legal con tests, and on the admission of that State into the Union was elected its first Chief Justice when only twenty-nine years of age.

At the breaking out of the Rebellion he resigned his judicial position and organized the 11th Regiment of Kansas Volunteer Infantry, was made its colonel and bore a conspicuous part in that struggle in the South-west, serving under Generals Schofield and Rosencrans. His most distinguished service was, perhaps, at the battle of Pilot Knob, September 28, 1804, and the retreat to Rolla, holding General Price's large army in check and protecting St. Louis from his

threatened advance, for which he was promoted to the rank of Brigader General.

At the close of the war General Ewing returned to Ohio and took a conspicuous part in State and National political affairs. He was a member of the Ohio Constitutional Convention of 1873-4, and was chosen to the 45th and 46th Congresses of the United States from his district, after which he resumed the practice of the law, and removed to the city of New York in 1882, where he has built up a large and lucrative practice.

General Ewing is a graceful, eloquent, and forcible speaker, a ripe scholar, and careful student of his profession, and possesses, in a marked degree, many of those characteristics which placed his father at the head of the bar of Ohio in his day. He has a fine and commanding presence, is possessed of rare social qualities, a genial, magnetic nature, and has before him, in the practice of his profession, to which he is now wholly devoted, a career of great usefulness and promise.

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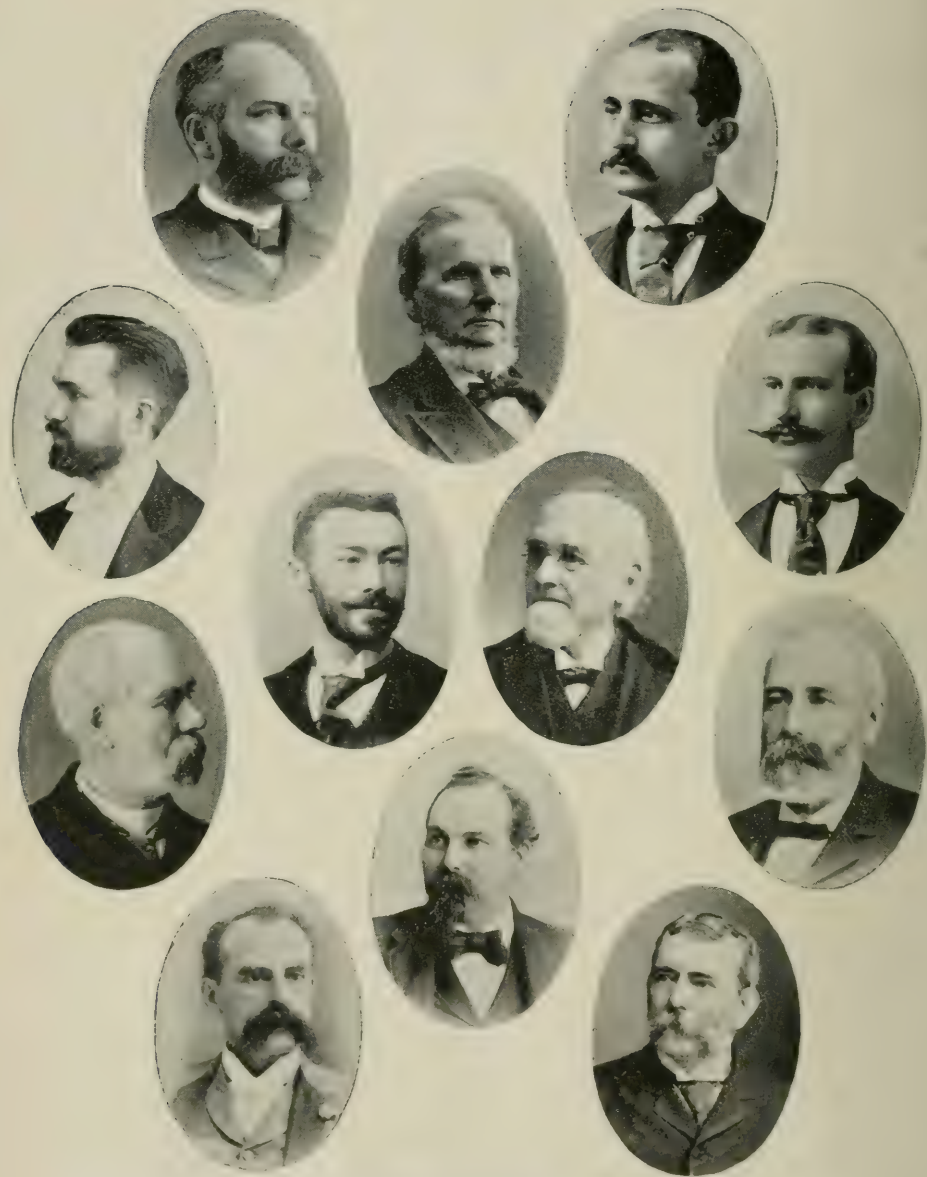

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# RETIRING ADDRESS.*

BY CLARK BELL, ESQ., AS PRESIDENT OF THE MEDICO-LEGAL SOCIETY.

To the Fellows of the Medico-Legal Society:

It is twenty years last November (1891) that I was elected to the Presidency of this body, and it may not be uninteresting in the few words I shall say in introducing my successor, to give a retrospect of the progress of the Science of Legal Medicine in the intervening years, and touch on the influence of the Medico-Legal Society upon the growth of public interest in its advancement during that period.

I found the Society then a small but earnest group of men, who had gathered around that center to awaken an interest in the professions of Law, Chemistry and Medicine, in the more careful study of the science of Medical Jurisprudence, and to bring the professions of Law and Medicine, then standing aloof and at arms length from each other, into more intimate personal and social relations, and all these professions united in the the Council Board of a body formed to become earnest searchers after the truth. Of the early names that were gathered into this work, but few survive. Dr. Finnell, the first President, Dr. Stephen Rogers, who interested me and brought me into the body, have passed into eternal rest. Prof. Frank Hamilton, whom I nominated as my successor in 1875, after my first three years of service, and Dr. Charles S. Wood, who later succeeded as President, have also passed away. There still survive Hon. Jacob F. Miller, who followed Dr. Finnell as President of the So-

*Delivered January 13, 1892.

ciety, Hon. Geo. H. Yeaman, who succeeded Dr. Hamiltom, Prof. R. Ogden Doremus, and Dr. Isaac Lewis Peet, who have each served terms as President, but the major part of the time since 1871 I have led the students who have kept the fires burning upon the altar in this temple of science. Of the lustrous names that I brought into this Society, which we have survived, I shall mention only Dr. James R. Wood, the great surgeon, Hon. E. W. Stoughton, Edward Dickinson, Aaron J. Vanderpool, Prof. Fordyce Barker, Dr. Geo. M. Beard, Judge John R. Brady, out of a list of hundreds of others who participated in our earlier labors.

The library was founded during the first year of my service. The volumes of the earlier labors were published up to and including Volume Three in what are known as Medico-Legal Papers, and a large illustrated edition was also issued of Volume One. Volume Four is now more than half completed, as is also Volume Five.

The Medico-Legal Journal was founded in June, 1883, and from its small beginning is now completing its ninth volume—going to your members and subscribers in all lands.

The movement to make the body national and even international, although more recent, has been crowned with great success. Its active membership is now extended into nearly every State and Territory of the American Union, and into foreign provinces and countries; while its corresponding list of members embraces the greatest names of the professions of Law and Medicine in all parts of the civilized globe. A Vice-President has been elected from nearly every American State and Territory, as well as from many of the leading foreign countries of the world.

The ashes from this altar traversed the Atlantic and were kindled into a flame in Paris that blazed up into the Medico-Legal Society of France.

A similar movement is more recent in Italy, and the study of the science has been quickened and stimulated in every capital of Europe by the labors of this body.

In America, similar societies devoted to the science have been founded in the cities of Chicago, of Philadelphia, of Denver, and in the States of Massachusetts, and of Rhode Island.

We need not stop to recapitulate or measure the influence this body has brought to bear upon legislation in the American States, nor upon the public sense, of the intimate relation the science bears to the rights of the citizen in the administration of Justice, in the public tribunals, civil and criminal.

No one can now measure it. The careful student of our century, who writes at the middle of the next, can better judge of the great work this body has accomplished during the past twenty years, than could any one now. From a small body of men we have grown to a Society which now numbers more than 1,000 names on its active, corresponding, and honorary lists.

Not the least important of our labors have been those in connection with the International Medico-Legal Congress, held in this city in June, 1889, and which then perfected an organization, which has decided to hold a second session in 1893, as we hope, in Chicago, in which students of the science throughout the world are now enrolling themselves.

These, in brief, have been our labors. And these open up the field of the future usefulness of this body. As I have been selected to preside over the International Congress of 1893, and the labors of preparation for that event, in connection with editorial duties upon the Journal, I have been compelled to ask for assistance, or, rather, relief from the duties of your presiding officer.

The Society is most fortunate in having for some years in

its membership a member of the judiciary of a distant State, who has recently come to sojourn in this city. He has been selected, upon my nomination, to fill this chair. He is a stranger to many of you personally, but he is well equipped for the work you have entrusted to his hands.

The increasing burdens of my professional life have compelled me to retire from a portion of the duties placed upon me in advancing Legal Medicine in the world, and I know of no safer hands in which to place the trust than those selected by the suffrages of your body.

I have the honor, ladies and gentlemen, and I assure you it is a sincere and a great pleasure, to present, as my successor, Judge H. M. Somerville, late of the Supreme Bench of Alabama, as President elect for installation as President of the Medico-Legal Society of New York.

# INAUGURAL ADDRESS.*

BY EX-JUDGE SOMERVILLE, PRESIDENT OF THE MEDICO-LEGAL SOCIETY.

PROGRESS OF MEDICAL SCIENCE, AND MODERN REFORMS IN LAW. RETROSPECT OF A CENTURY IN ITS INFLUENCE ON FORENSIC MEDICINE.

FELLOW MEMBERS OF THE MEDICO-LEGAL SOCIETY:

Though, as the old adage hath it, "silence is golden and speech only silvern," usage renders it proper that one chosen to the honorable distinction of presiding over the deliberations of this Society shall submit

A FEW REFLECTIONS IN THE FORM OF AN INAUGURAL ADDRESS.

The time afforded me is too brief to permit more than an expression of appreciation of the honor conferred by this vote of your confidence, and to offer a few words of encouragement in the work of promoting an important branch of professional learning, which, although it never attained the dignity of a science until the 16th century, is to-day, in every true sign of progress, abreast with the most advanced sciences of the civilized world.

I congratulate you on

THE PAST SUCCESS OF THE MEDICO-LEGAL SOCIETY,

which, during the twenty odd years of its existence, has attained a world-wide renown, extending its membership not only to every State and Territory of the Union, but carrying its banners across the waters of the Atlantic to England, France, Germany, Italy, and other countries of

*Pronounced January 13, 1892.

the Eastern Continent. Among its members are numbered many of the most learned physicians, the ablest jurists and lawyers, and the foremost scientists of the age, who represent an army of struggling thinkers, out of whose brain-sweat is being wrung the gradual but sure solution of many problems of forensic medicine which vainly puzzled the brains of Coke and Kenyon, Hippocrates and Galen, centuries ago.

In this work the Science of Law is the handmaid of the Science of Medicine, for Medical Jurisprudence is nothing more nor less than the proper application of the principles of medicine to the administration of law.

The modern progress of this complex science is but the outgrowth of the evolution of modern scientific thought—the result of the toil of the combined brains and minds of the two foremost professions in the world, aided by the most skilled alienists in other departments of knowledge.

It is encouraging to take a brief glance at the

ADVANCEMENT MADE IN BOTH MEDICINE AND LAW

during those periods of the past as to which we are enlightened by history.

We read of Hippocrates, nearly twenty centuries ago, as a prodigy of learning in the science of medicine, which was then but imperfectly understood among the old Greeks, and later on we read of Galen as the "medical autocrat" of the second century, announcing his purpose to "bring back the unity of medicine" from its retrograded condition to what it had been in the age of Hippocrates, and further "to raise the dignity of medical practitioners," which had then much fallen. From his time, nevertheless, we are told that medicine began to participate in the decline which had already overtaken art and literature, and, amid this stagnation of professional thought, Galen's authority is said to have "reigned supreme for over twelve centuries."

Yet we may ask what did those devotees of Aesculapius know compared with the great medical specialists of these closing years of the 19th century, who are now

LEARNING TO CONQUER THE PESTILENCES

of the world that have "walked in the night and wasted at noonday."

Historians enumerate as many as 300 medical writers in Arabic, not one of whom made a useful discovery or evolved a creditable thought not before announced by their more learned Greek predecessors.

One of the old Jewish writers, as I remember to have read somewhere among the books af the Apocrypha, observes that "a good physician is a gift from the Lord," thus implying that such a personage was of rare existence, if not of miraculous inspiration.

So the sacred Scriptures tell of a poor woman cured of disease by miracle 2000 years ago, who had spent in vain all her substance on the physicians of that unlettered age.

Pliny adds to the desolate picture by declaring that the old Romans got on for 600 years without doctors, human diseases being treated only by superstitious observances, charms, and incantations.

Lord Bacon, in his work on the "Dignity and Advancement of Learning," asserts that he "found great repetition, and but little new matter, in the writers of physic," and that "for all times witches, old women, and imposters had, in the vulgar opinion, stood competitors with physicians."

This unpromising condition of medical science was no doubt one of the pregnant facts of his time that elicited from Bacon his famous saying in regard to the ancients, "*We are their elders.*" "Those who have treated of the sciences," he continued, "have been either empirics or dogmatical. The former, like ants, only heap up and use their store; the latter, like spiders, spin out their own webs."

And, in harmony with his great principle of inductive philosophy, it is not surprising that, with more true wisdom than Aristotle or Plato ever had, he concludes: "Our only hope is in the regeneration of the sciences by regularly raising them on the foundation of experience, and building them anew."

THE CLOSE OF THE NINETEENTH CENTURY

witnesses this regeneration of all the sciences, and of none more than that of medicine in all its departments, and, as we believe, beyond the expectation of the most sanguine. It has indeed been builded anew, as all objective sciences only can be, by experience, research, and discovery. Brilliant progress has been achieved in anatomy, physiology, chemistry, pharmacy, diagnosis, and experimental practice, forensic medicine, surgery, and every other branch of medical science.

The single discovery of Jenner, for the prevention of small-pox, made during the last century, which places that dreadful disease under complete medical control, with its estimated

DEATH RAVAGE OF FOUR HUNDRED THOUSAND A YEAR

in Europe alone, has concededly done more for suffering humanity than the combined discoveries of all the other sciences in the past forty generations.

The experiments of Koch, which are yet in the crucible, afford reasonable hope of unannounced discoveries not less important to science, and of equal potency in conquering another ill to which flesh is heir, which annually carries to the grave its hundreds of thousands of victims.

These, and many other achievements of medical science, are the harbingers of a brighter day in the future for suffering humanity. In no department of medicine, if we con-

sider the difficulties to be encountered, has more hopeful progress been made than in all that pertains to

THE SCIENCE OF MEDICAL JURISPRUDENCE.

It was only ninety years ago that the first lectures on this subject, instituted in Great Britain, were delivered in Edinburgh, and three years later the first in America, at Columbia College, in this city. Since then the great works of Dean and Ray, of Guy, Beck, and Russell Reynolds, of Bucknill and Tuke, Balfour Browne, of Henry Maudsley, and Wharton and Stillé, and other writers on psychological and forensic medicine, have been given to the profession and the public on both sides of the Atlantic, announcing new truths and exploding old fallacies. Chairs of instruction have been established in the foremost universities and colleges of Europe and America for teaching the principles discovered.

THE COURTS OF THE COUNTRY

are every day rising superior to the dogmatism of early ignorance on the subject of medical science in the administration of the law; and legislators are every day formulating into statutes a wise recognition of these humane and newly discovered truths.

These facts are prouder tributes to the merit, industry, and learning of the medical profession than that afforded by the famous decree of Cæsar, by which he conferred the valuable privileges of citizenship upon all physicians at Rome. Blessed are the eyes of those who live in this day and generation to behold the wonderful fruits of these beneficent discoveries in their application to the practical affairs of life, and their amelioration of the condition of mankind.

THE SCIENCE OF LAW

has also made progress with the centuries, but not with a step so steady and rapid as that of her sister science, Medicine.

Cicero eloquently declared of the civil law, in his work *De Legibus*, that "the true and fundamental law—whose voice is to command and to forbid—is the right reason of supreme Jove." So the Roman lawyers boastfully pretended, in theory at least, to find the whole jural code embodied in the three precepts, "To live honestly, to render to everyone his own, and to hurt nobody." Yet Tacitus said of the Roman bar, in the reign of Claudius, that nothing was so easily bought as the perfidy of the advocate, and to-day the ancient Roman law, as a system, like Roman literature and art, is a mass of splendid ruins, furnishing the foundation only for the structure of new and better systems governing the relations of half the civilized globe.

But the bloody laws of Draco are no longer possible; nor more the plebiscit of the mob banishing Aristides for being just; or the decrees of Senates proscribing Cato for his integrity, or Cicero for his eloquence of pen and tongue.

It is of Anglo-Saxon jurisprudence, however, that I particularly speak, and the improvements it has undergone in the past century. Its curse has been its origin in a barbarous state of society, which gave rise to the feudal system, whose crude technicalities and savage customs have been,

LIKE THE ARMS OF AN OCTOPUS,

about it to dwarf its healthy expansion. The conservatism of the system has constituted alike its strength and its weakness, rendering it tenacious to preserve its "judge-made" precedents, and slow to change them when once delivered. Yet its saving principle of self-perpetuation is found in the vital one of

JURIDICAL EVOLUTION,

or the plastic power of accommodation to the new phases of advancing civilization, and the freshly-discovered truths of science.

Mr. Hallam, a half-century ago, in his *Middle Ages*, elo-

quently declaimed against the mass of useless and undigested learning embodied in the common-law system, as lacking in what he styled "the comprehensive spirit of legal philosophy," and he declared that a crisis had at last arisen when the laws of England, like those of Rome, must be

"CAST IN THE CRUCIBLE,"

and be subjected to "a necessary reformation." That reformation has been progressing steadily for the last half century, wherever the Anglo-American jurisprudence obtains, and the English language is spoken.

And first we note that the

PENOLOGY OF OUR CRIMINAL CODES

is more humane, being shorn of its ancient cruelty, and more tempered by mercy.

Sir William Blackstone mentions no less than 160 crimes punishable as felonies by instant death, without benefit of clergy, in the early history of the law, and other writers put the number at over 200.

The penalty of death is now inflicted in the State of New York for only three felonies, and is confined to less than half a dozen in most of the states, while it has been entirely abolished in some.

The mode of executing capital punishment gives promise of being improved in its humanity by being rendered more speedy and painless. The State of New York has taken the lead in substituting

DEATH BY ELECTRICITY

for the barbarous practice of strangling with the rope by hanging. The success of the experiment may soon induce others to follow the example.

Lunatics are no longer incarcerated in jails, and punished with chains and stripes, nor otherwise treated as the self-made victims of evil passions or as subjects of demoniacal

possession, as in ancient times, but they are cared for humanely as unfortunate victims of disease, and are treated by trained medical experts in asylums and hospitals built by the State or constructed by private means.

Lord Brougham, in the last century, boldly declared that the laws of England governing the relations of husband and wife, both as to personal and property rights, was a

DISGRACE TO THE CIVILIZATION OF THE AGE

in which he lived. To-day the law is reformed so as to accord to wives, both in England and America, the right to own property in their own behalf, of which they cannot be robbed by spendthrift husbands; and within the present current year the highest court of England has judicially declared that the position of a wife is no longer that of a slave to the husband; that she is entitled to her personal liberty without the right on his part to imprison her at his will, as in the unenlightened era of the past centuries.

The law has also been largely

PRUNED OF ITS EXTRAVAGANT TAUTOLOGY.

Shakespeare makes Hamlet revile this vice of the system by pointing cynically to the coffin of the dead lawyer and uttering that "the very conveyances of his lands will hardly lie in *this box*."

An intelligent lawyer can to-day, in the space of ten lines, write a deed conveying the landed rights of a monarch in an empire.

Within the present generation learned alienists, who have testified as witnesses in the courts as to facts now everywhere admitted by educated persons, have been

SNEERED AT FROM THE BENCH

by reputable judges, and juries have been recklessly instructed to give little or no weight to their opinions. To-day, in Germany and France, in England to some extent,

and in most of the American states, the opinions of these learned men aid in formulating the law, and control the judgments of courts and the verdicts of juries, in their determination of the property and personal rights of the citizen.

Our system of jurisprudence is no longer liable to the criticism of Jeremy Bentham, applied to the English law, of being "confused, indeterminate, inadequate, ill-adapted, and inconsistent."

I could mention many other evidences of the vast progress made in the process of evolution now going on in Law, Medicine, and Medical Jurisprudence, by which obsolete principles are being relegated to oblivion, and the fittest are made to survive.

But my allotted time has expired.

Let

OUR BAR ASSOCIATIONS

continue to do battle for a legal reform, which has in view the simplification of basic principles, the advancement of the utility of the system, and the elevation of the dignity and honor of the profession.

Let

OUR MEDICAL SOCIETIES

bravely continue to be the pioneers of scientific discoveries in the future as they have been in the past, publishing these truths to the world, and boldly maintaining them by argument, in and out of season.

Let

OUR UNIVERSITIES AND COLLEGES,

both of law and medicine, establish chairs for the instruction of students in the sciences of forensic and phychological medicine.

The mission of our Society will be a useful one, fruitful of excellent results, if we can excite discussion in the press and interest in the public mind on these subjects.

I conclude by again thanking you for the honor you have conferred in selecting me as the President of this Society. Allow me to say, in all sincerity and earnestness, that I do not feel adequate to the duties of the position, nor hope to achieve anything at all comparable with the successful administration of the office by my able predecessor, to whose faithful and unremitting exertions, more than to any other cause, is attributable the marked and splendid success of this useful and now

WORLD-RENOWNED ACADEMY OF SCIENCE.

Let us all worship devotedly at her altars of truth, and may the very stars that stand sentinel in the skies keep faithful watch over her welfare.

# MEDICAL JURISPRUDENCE, THE BAR, AND THE JUDICIARY.*

BY CLARK BELL, ESQ., OF NEW YORK CITY, PRESIDENT INTERNATIONAL CONGRESS OF MEDICAL JURISPRUDENCE.

The true aim of the advocate, he who aspires to a high place in the profession, should be to master the law as a science, and to leave no door of her temple unopened beyond, from or through which knowledge in any department or branch could be derived.

That student of the law whose aim is highest must needs study, from the foundations upward, rather than from precedents or recorded decisions, inward or downward.

The fault of modern legal education is most conspicuous where it ignores the fundamental principles of a science conceded to be exact, but whose study must needs be complete, exhaustive, organic, and profound to him who would absorb it, because the neophite has neither time, inclination nor opportunity, in the present schools of law, to do more than classify its outlines, much less to master its principles; and so the graduates of these schools can rarely have learned at graduation anything more than a superficial view of those elementary principles that form, make up, and underlie what the concentrated learning of the great jurists of all the world have defined to be the law as a science.

The old school of the Bar, the men who were profoundly learned in principles, whose study of cases was frequently

*Read before the New York State Bar Association, January 21, 1892, and the Medico-Legal Society, of New York, February 10, 1892.

to see whether, and how far, the judges had sustained or departed from the underlying and controlling principles of a case—these men taught the law to their students and devotees much as Justinian framed his institutes, or Blackstone wrote his celebrated commentaries. To the modern student of the law school these works are undecipherable without a thorough reading and knowledge of the civilization of the age and the environment of the men who produced each.

I never place Blackstone's commentaries in the hands of one of my students without first asking him to read, with care, the introductory chapter of Robertson's History of Charles the Fifth, so that he may understand what feudal tenures were, and know of what Blackstone speaks regarding the social fabric of the times in which he wrote. The tendency, the whole trend, of legal study in our day seems, however, rather to have avoided considerations which controlled the abler jurists of the first part of this century, and our young men, varnished, furbished and brightened in certain departments of the science, come into the profession from the schools with crude ideas of what a mastery of the law means, and so drift, almost of necessity, into specialties, except a rare few, who are ambitious to attain higher excellence and cultivate more profound research, and who delve at the foundations for superior knowledge.

We rarely meet with the young lawyer now who rightly regards the law school as a mere vestibule or passage way that leads up to the profounder study of the law; and it is only to such that we may look for that solid learning, great legal acquirements, and profound study which characterize and mark, as the rich rewards of application and high endeavor, the paths trod by those great names, who are, by general consent and acclaim, named as the uncrowned kings of the legal profession. It is, perhaps, natural that in a scramble, or hurry and scurry race, over the heads or depart-

ments of the science, that many students feel compelled to make, such only should be selected as seemed most prominent, and thus apparently the more valuable; and such ignored or excluded as were considered least desirable in practical results, like men in a burning dwelling seizing those articles easiest to reach and safest to remove.

MEDICAL JURISPRUDENCE.

This may have been the controlling reason, or one of the most important ones, why Forensic Medicine has not received that attention in the curriculum of legal study that its importance demanded, or that higher order of scientific research which its acquisition required.

It is a rare thing now, in the American schools of law, to find a chair of Medical Jurisprudence in fact, or frequently even in name, and it is a scandal upon our law schools that they frequently graduate young men, and receive them into the profession, who have not studied this branch at all, or who have merely skimmed the surface of a few text-books, if they have ever entered even the head lines of leading subjects upon their note books.

This is a great stain upon our law-school system, and lowers our standard of legal education, and it should be at once rectified.

If we are to regard the profession of the law as one of the learned professions, we should not be willing to consent that an institution should graduate a man, ignorant of the simplest principles of Medical Jurisprudence, any more than one who knew nothing of the laws of practice, or of the principles of commercial law. See what is in the immediate field of labor of the graduate who commences to practice the profession of the law in almost any sphere into which he may be thrown, even at the outset.

1. The law regarding undue influence in respect to wills.

The law of testamentary capacity. The law relating to insanity as affecting civil responsibility in wills, deeds, or contracts and the whole domain of commercial law.

2. The wide field of law regarding the insane, their care, treatment, and their civil rights as such. The question of responsibility of the insane in criminal cases and the questions involved, extending into all the ramifications of our national life.

3. The domain of State medicine, of life insurance, of malpractice, and the whole work, scope and duty of the coroner's office.

4. The administration of Justice, with the work of the public prosecutor in a large line of criminal cases, requiring the same knowledge of Forensic Medicine in him who prosecutes as he who defends.

5. The whole field of toxicological inquiry, with its close relation to the bench, the bar, and the administration of justice.

It has often seemed to me that the general ignorance of the profession, upon questions such as these, is something deplorable, and yet what a splendid field of study for the thoughtful and ambitious student is here opened, and how can any member of the bar deem himself worthy to enter the lists in forensic contests without preparation in that department of the law known as Medical Jurisprudence?

It has been a refuge of necessity for the lawyer called suddenly into a case demanding knowledge upon this intricate branch of the law to read up for the case at hand when the case presents itself. But where will he read? I remember when a boy, in my student life, standing by to see two country physicians conduct a surgical operation, where one held the book and read from it the instructions while the other cut. The blood flowed from the suffering patient while they discussed the true route of the knife, and our

case lawyers, in medical jurisprudence, present much such a spectacle and the client bleeds in much the same manner.

THE BAR.

Twenty years ago, when I was first called to the chair of the Medico-Legal Society of New York, (an organization formed and carried on to interest men of the two professions thrown in contact by questions of Forensic Medicine, to incite each to its more careful study, and to bring them into nearer and more intimate relations, socially and professionally, with each other,) there was no place where any collection of works upon Medical Jurisprudence could be found worthy to be called even the nucleus of a library in that great city, the metropolis of the nation.

There has been some progress made in those twenty years, not only in the city of New York, but in the State and the Nation, and the importance and claims of the science upon the bar, has advanced *pari passu* with the useful and persistent work of that body.

The library of the Surgeon-General's office at Washington—thanks to the splendid energy of Dr. Billings—has grown within that period to be the best and most complete collection of works upon Medical Jurisprudence, not only upon our continent, but probably the whole world.

Almost the first step taken by me when I came to that chair was to found a library of Medical Jurisprudence in New York, which is now second only to the one in Washington, while all the law libraries have been inspired with greater zeal in increasing the value and importance of works in this department of legal science, and the lawyer of to-day suddenly called without preparation into this class of cases, all over the nation, can make easier answers to inquiries than he could ten, or even five, years ago.

It is not a good thing for the active lawyer to defer his

study of the elementary principles of Medical Jurisprudence until his case arises, even if his office was in an alcove of the best library of Medical Jurisprudence in the land.

It is a branch of the science requiring thoughtful, careful, and closer study than many others, and much as the fate of he who is forced by his training, environment, and education to be merely a "case lawyer," is to be deplored even in general practice; no where is his failures more likely to be fatal and more mortifying than in those cases, which, for the purposes of this address, I may designate as "Medico-Legal Cases."

Take for example the lawyer who acts as District-Attorney, or his assistant, in the prosecution of criminal cases, in cases of homicide and lesser grades of offenses where these questions arise. How ill fitted is any member of the bar for the discharge of the duties of such an office who has not studied Medical Jurisprudence thoroughly, as well upon its legal as on its medical side?

The advocate who is called to the defense of criminals in cases of homicide where the defense of insanity is interposed, in cases of poisoning, and in all that multitude of cases involving a knowledge of Medical Jurisprudence, is but ill equipped where the liberty, or even the life, of his client is in his hands, who has not mastered this department, and what are his chances of success against opponents learned in every branch and technical part of these questions? How is the lawyer competent to cross examine the medical or chemical expert, who in a crowded practice has to read books at night on the details of chemical questions and the field of mental medicine, matched against men who have mastered every detail of the science; and how immeasurably superior is the advocate for his work who has studied all the elementary principles before he took the case at all.

The questions arising in Surrogates' courts, and in a large

class of actions in the civil courts—in life insurance, malpractice of physicians and surgeons, and analagous questions in the active practice of the busy lawyer, make it amazing that the student is not more thoroughly fitted for this portion of his duties by his preliminary education and training, and the fault is wholly that of the bar and our system, and not of the students of the law.

### THE JUDICIARY.

But it is upon the bench that ignorance of the principles of this department of the law in its administration, and in the tribunals of justice, both civil and criminal, becomes, or is, most deplorable and reflects greatest discredit upon our system of legal education.

It is a truism, and we need only state the proposition, that a judge who is to administer the law should be versed in its principles.

That judge should be learned in all the learning of Medical Jurisprudence who is the expounder of the principles under which offenses against the law are to be tried, investigated, and punished; and the importance of a proper elementary education in Forensic Medicine in the judges who preside over the administrations of public justice is of the the highest consequence to the successful administration of our judicial system in the discharge of its great duty, to punish real offenders, defend the innocent unjustly accused, and protect the rights and liberties of the citizen.

I do not mean to say that a lawyer who has been elevated to the bench should decline the office because he never opened a volume that treated of Medical Jurisprudence, but he has before him the imperative and immediate duty of commencing *de novo* a study that should have been taught him as a student, with Blackstone and Kent, or as a part of that wider realm of the philosophy and ethics of the law, to enable him to be at all capable to sit in judgment upon

questions and principles of which he was ignorant when he donned the ermine.

The American judiciary have presented, in the recent past, the most conspicuous examples of distinguished ability in grappling with the questions constantly presented to public notice in medico-legal cases requiring judicial interpretation. In the twenty years to which I have alluded there has been great judicial advance and evolution, and the light that has come from the bench has outshone and been more luminous than that from the bar. Take for example the question of the true test of responsibility in cases of homicides committed by the insane. The absurd and false "Right and Wrong Test" that was given at the convocation of the English judges as the *sequella* of the McNaughton case, which has been made the rule in England for half a century. We took it in the American States, not by inheritance, but by force of habit, notwithstanding it was not a judicial opinion pronounced in a case pending in any court of law; not because it was the *obiter dictum* of one but of many judges on abstract propositions; not because of any of the circumstances in English society life and conditions, which no doubt largely influenced the English judges to agree upon such a test, which, it is quite safe to say, had not before that ever been the law of England; but because it was easy and popular and fashionable to accept a doctrine that our English cousins had agreed to accept, and so for nearly half a century this absurd doctrine has stood for the law in English speaking countries; and insane men by the score have gone to the scaffold in England and in American States, convicted by juries under this false and erronious test as charged by judges who followed this *obiter dictum* as if it were an authority.

The emancipation of judicial thought from this error has been due almost wholly to the bench, and with almost a single exception to the American bench.

The man who more than all is entititled to the greatest credit for this bloodless revolution is Mr. Chief Justice Doe, of New Hampshire.

His splendid opinion, which more than twenty years ago reversed the right and wrong test and commenced this emancipation of the American bench, placed New Hampshire in the vanguard of the American States on the right side of this question. I have space in this paper to name only three causes and but two or three of the men who have been most influential in this great judicial revolution.

1. The medical profession from an early day have endorsed the unanswerable logic of Chief Justice Doe's opinion in the New Hampshire cases.

2. An English judge (who, whatever may be said of his conduct in the celebrated poisoning case tried at Liverpool, which created such a sensation at home and abroad,) had attracted the attention of jurists throughout the world by his masterly statement of the falsity of the right and wrong theory as then accepted in England, in his remarkable and incomparable book upon the History of the Criminal Law of England, a work which doubtless led (with his other writings) to his elevation to the English bench—this man more than any Englishman has played a most conspicuous part in this change of judicial ideas.

Sir James Fitz James Stephen may have made mistakes in the Maybrick case, but the value and brilliancy of his life and writings upon this question should lead lawyers and judges to deal leniently with his errors, if such are claimed to have been committed on that trial.

3. There is, perhaps, no more scholarly and splendid argument among all the judicial utterances regarding this absurd doctrine than the opinion of the Supreme Court of Alabama, written by Judge Henderson M. Somerville, in the cases of Parsons *vs.* the State, which summarizes the pro-

gress and growth of this silent evolution of judicial opinion in the intervening years since Judge Doe laid his axe at the root of the tree destined to fall under the sturdy logic of his blows, and while these results have not yet been adopted or concurred in by the judges of all the American States, nor as yet by the English judiciary as a whole, the end has come of the "Right and Wrong Test" in cases of insanity in Great Britian, and, I think, nearly so in America.

In England the law officers of the crown now conduct an inquiry on their own motion in every case of doubt, with skilled experts of the first rank, like Dr. William Orange, selected by the prosecution, frequently before the trial, and it is quite safe to say that from this day onward no insane man will ever again be executed in England.

In the recent case of Duncan, who was acquitted, Mr. Justice Lawrence charged the jury in England in the line of Mr. Justice Doe's opinion, for Duncan well knew the difference between right and wrong. He well knew the nature, character, and consequences of the act he committed, but these would not weigh if he was acting under an insane delusion which dominated his action and which he was powerless to resist or overcome.

The end of the present century will beyond doubt see the end of this doctrine in criminal trials in every American State, and this is due almost wholly to the bench, and to the American bench.

It is to the bench we must look for that growth, that evolution of the principles and application of the law to the corresponding growth in knowledge, and this applies to science, the arts, commerce, and all that marvelous development of our resources that marks out for the race which are to occupy the continent of North America for the next half century, a future best appreciated by Sir William Gladstone in his estimate of the growth and development of this continent, and its

population for only the first half of the century on which we are so soon to enter.

The progress of Medical Jurisprudence in this country in the last twenty years would, if correctly described, fill a paper much larger than the present one. During the past ten years it has been very great, and I may say that within five years last past it has been something prodigous. This is as true of Italy, France, Spain, Germany, and of continental Europe as of the American States.

A new impulse has been given to the study of Medico-Legal Science, quickening and widening the labors of the students of law, and the approaching International Medico-Legal Congress of 1893, (which I hope will be held in Chicago), will doubtless add still greater luster and eclat to these studies, as did the work of the International Medico-Legal Congress of 1889, held in the city of New York, the influence of which has been felt throughout all the nations of the civilized globe.

It is the duty of the bar association of this and every American State, and of the Nation, to co-operate with the resolution adopted at that congress, in hastening the day when every school of either law or medicine within the limits of the American Union should not only have a chair of Medical Jurisprudence, but require that the students of each profession should be able to pass an examination before graduation in this branch of science of such moment to the honor of both the professions of law and of medicine.

# THE HISTORY AND PRESENT POSITION OF THE DOCTRINE OF MORAL INSANITY.

BY "PERCUTE ITERUM."

[CONCLUDED.]

I need hardly break the thread of my argument by a digression into the history of legal and metaphysical opinion upon the nature of insanity, having already so fully described the horrible practices which it engendered. Is not the record written in the pages of Cameil,* where the curious reader may range at will among the speculations of De Lépine,† Bodin,‡ Delancre,‖ and other liberal minds? The point of present interest is, that against the false creed upon which medieval pathology and jurisprudence thus based their practice, a few brave men had been lifting up their voices in faint and intermittent, yet ever growing, protest. Vincent de Paul had proclaimed§ "that the darkened

*De la Folie, Tome 1, p. 89.

†Barthelemi de Lepine, 1523, was a Professor of Theology. He maintained that "les démonolâtres doivent être voues a l' extermination; il faut les immoler lors même qu 'ils ne sout en proie qu' a des sensations, qu' a des idées illusoires; car ceux qui abhorrent l' engeance infernale ne sont point exposés a de pareilles abérrations des sens ou de l'entendement.

‡Bodin took the same view, *Demonomanie*, Paris, 1582.

‖Pierre Delancre was a counsellor in the Parlement of Bordeaux. See his works cited by Calmeil, *ubi supra*.

§W. A. F. Browne, Lect. iii.

mind was as much the visitation of God as the darkened vision, and that Christianity demanded of the humane and virtuous and powerful to protect, and of the skilful to relieve, the one as well as the other." In the 17th century, Ponzinibius and De Lamius maintained that demoniacal possession was a physical malady, and that the confessions of its victims, as they could not be corroborated, ought not to be implicitly believed. According to Alciat (*Parerga juris*), insane ecstacy ought to be recognized as an exculpatory plea in criminal cases. Levinius (*Occulta Naturae Miracula*), asked whether supernatural beings could really cause ailments which medicine cured. The views of Lepois and Baillou were equally liberal. Wier, while firmly believing that organic derangements were caused by the rage of fallen spirits, whose number he computed at several millions, yet held the victims of demoniacal possession to be irresponsible; "their curses injure no one; the children whom they pretend to have devoured are still alive; the corpses which they pretend to have carried away are still entombed." Towards the end of the 17th, and the beginning of the 18th, century, such views became more common and more pronounced. Vieussens attributed madness to bile. Balthasar Bekker* dared to question the existence of *succubes* and *incubes*, and ridiculed the hideous mysteries of the *Sabbat*. But it is in the *Cautio criminalis, seu de processibus contra sagas*, that we find most vividly depicted at once the darkness of the age of credulity and the dawn of the age of scepticism. In this remarkable work, Spée analyzes with great acuteness, and ever and anon with an epigramatic outburst of indignation worthy of Michelet, the whole judicial machinery of sorcery prosecutions. He shows that these were initiated by informers whose wages depended upon the

*Le monde enchanté, 1694, Tome ii, 482; Tome iii, Chap. 2.

number of cases which they brought to trial,* countenanced by theologians too intent upon developing the logical to think of the practical consequences of their doctrines, stimulated by sacredotal hatred, and disgraced by torture, meagre proof (supplemented by hearsay and prejudice), and gross judicial partiality. In describing the callousness of the theologians, he says (p. 65), "Quid foris gereatur (*sic*), quis squalor carcerum sit, quod vinculorum pondus, quae instrumenta torturarum, quae lamenta pauperum, et similia, experientâ nullâ didicerunt." To the blasphemous suggestion that in the indiscriminate slaughter of those suspected of sorcery, the Almighty would recognize His own, he replies, "Non intercedo justitiæ; non obsisto; nolo ut sint crimina impunita; sed id solum volo quod Legifer noster Christus, suo ore sancivit, non evellenda esse zizania si periculum sit ne forte cum illa et triticum evellatūr." (P. 63.) In the following passages Spée dramatizes, with great power, a scene in the torture chamber. The victim, stretched upon the rack, is at last insensible to pain, and unconscious of the presence and voice of the priestly questioner. "Ecce, inquit sacerdos, nunc somno solvitur, ubi alia tractamus; cum id ageretur ut se reum diceret, ad omnes quaestiones obdormiebat. Quid de maleficio dubitabimus? Non poterat eas poenas nebulo perferre, nisi demon ei sensum sopivisset." To which he adds, "Præclarum vero facinus, ac sacerdote dignum!" (P. 172.) Again, "Age, stulta mulier et vesana! quid totiés vis mori, cum possis semel? Sequere consilium, et ante omnem poenam dic te ream et morere!" (P. 397.)

In the *fermentation philosophique*, in the upheaval of old ideas and beliefs, in the new-born zeal for humanity, which preceded and accompanied the French Revolution, and amid

*"Res sane ardua et periculosa; neque enim sancti omnes sumus; aut tam inconcussae mentis quam non ardor aliquis habendi labefactet." (P. 19.)

the fierce negatives with which mankind everywhere answered Voltaires* question "*un prêtre de Christ, doit il être souverain?*" the remonstrances of Bekker and Spée, faintly heard before amid the dogmatism of judges and the clamour of priests, swelled into the indignant protests of Tenon, and the resolute action of Pinel. "En effēt," says M. Tenon,† "que sont des bâtimens d' Hôpitaux pour d' autres malades que de fous? Des moyens purement auxiliares, propres à favoriser le régime et à seconder la vertu des medicamens. *Mais les Hopitaux pour les fous sont autre chose ; ils sont eux mêmes fonctions de remède.* Il faut que le fou, durant le traitement, ne soit point contrairé qu'il puisse dans les momens où il est surveillé, sortir de sa loge, parcourir sa galerie, se rendre au promenoir, faire un exercise qui le dissipe, et que la nature lui commande." So Pinel, of whose life I shall speak immediately, recommends, not without a touch of revolutionary rhetoric in his tone, that liberty, wisely measured out, and harmonizing with necessary discipline, should be the chief cornerstone of asylum administration.‡ The reformers were not, however, satisfied with barren expression of sympathy or opinion. They assailed not only the current methods of treating insanity, but the erroneous theories on which these rested for support. They insisted that insanity was a disease amenable to physical

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*Cp. also Voltaire, Comment sur le livre des delits et des peines, ix; "est il possible que des peuples qué se vantaient d' être reformes et de fouler anx pieds, les superstitions, qué pensaient enfin avoir perfectionné leur raison, aient pourtant cru aux sortiléges, aient fait brûler de pauvres femmes accusees d'être sorcières, et cela plus de cent années après la prétendue reforme de leux raison!"

†Mémoires sur les Hôpitaux de Paris, 1788, p. 216.

‡I have done violence to Pinel's language, but not to his essential meaning, "Une liberté, sagement calculée, caractérise le maintain de l'ordre qui s'accorde avec les principes de la philanthropie." "Recherches et Observations sur le Traitement Moral des Alienés," 1800?

remedies. They substituted induction and *analyse** for the assumptions of scholastic philosophy. They raised the lunatic to the dignity of a patient, and preached everywhere deliverance to the captives and the acceptable year of the insane.

Now, it was in this *reaction* from the horrors of medieval alienism that modern alienism arose, and that its actual contest with the courts of law began.

M. Phillippe Pinel,† the central figure in that noble group of reformers, expressed his conviction‡ that *there are maniacs who give no evidence of lesion of the understanding, but are yet hurried forward irresistibly to the commission of crime.*§ Neither the induction nor the conclusion was altogether original, for Pussin, Pinel's secretary, supplied the facts,‖ and Ettmuller¶ had already furnished a definition. But Pinel

*Pinel was the apostle of *analyse*. His views are very clearly explained by Cuvier—"Eloges Historiques," Tome 3, p. 379, "M. Pinel voyait dans chacun de nos maux, une invasion, un development des périodes, et un commencement régulière,comme chaque être organise a sa naissance sou accroissement—et une fin inévitable." An alteration in the symptoms is not an alteration in the disease. The physician should look not to the symptoms of the moment, but to the progress of the malady. *Analyse* implied, (*a*) the recognition of a disease as running a course; (*b*) decomposition, *i. e.*, a description of the disease at each stage; (*c*) classification.

†Born 20 April, 1745; died 25 October, 1826.

‡Pinel speaks of "manie, marquée par des lesions de la volonté c'est á dire par des emportemens fougeuses et aveugles, une fureur soit intermittente, soit continué, quelquefois jointe avec, plus ou moins de trouble, et de confusion, dans les idées, d'autres fois avec un exercise libre de toutes les functions de l'entendement."—Recherches, ete p. 23. In determining whether Ph. Pinel believed in moral insanity without any lesion of the understanding, it is worth inquiry what *Scipio* Pinel took him to mean, (See Sc. Pinel's *Regime des Alienistes*, 1836, p. 138.) "perversité de caractère, mais avec toute la lucidité de la raison," and again, (p. 42,) "les aliénés qui *presque raisonnables* ont une propension irrésistible."

§For my present purpose it is not necessary to distinguish impulsive affection and instinctive insanity.

‖Pinel was much indebted to the Superintendent Pussin, who lived among the patients, gained their confidence, and had an intimate knowledge of every form of mental disease.

¶Prax., lib. ii., op. tome iii, 368, "*mania sine delirio; melancholia sine delirio.*"

exercised over the minds of his contemporaries an influence not unlike the fascination which Newman possessed at Oriel for all ardent and intellectual souls, and his crude theory, based on imperfect, and, in great part, on second-hand observations, was converted into established doctrine, and has descended to us under its original name as *manie sans délire*. Now, when I call this doctrine *a revolutionary theory*, I do not mean simply, or even principally, *that it was accidentally promulgated in the course of a reaction* against the prevailing methods of treating the insane. I assert that *but for that reaction*, and the intellectual atmosphere which it created, the theory of moral insanity would either not have been propounded at all, or have been instantly repudiated by those to whom the plea for its acceptance was addressed. It was not, as has been said, the result of Pinel's independent investigations. But suppose that it had been. What were his qualifications as an alienist at the time when his alleged discovery was made?* He had been a distinguished mathematician, so much so that Cousin pressed him to devote his attention to that science exclusively, had translated the *Practical Medicine* of Cullen, (1785), had written papers on hygiene for the *Journal of Paris*, had edited the works of Baglivi, had gained a prize offered by the Royal Society of Medicine for an essay, "*Sur le moyens les plus efficaces de traiter les malades dont l'esprit est devenu aliéné*," (1791,) and after holding office at the Bicêtre (1792), and the Salpêtriere (1794), had, become Professor of Hygiene (1795), and afterwards of Pathology, in *L'Ecole de Médicine*. With the exception of the experience acquired in the Bicêtre and the

*Cuvier, *ubi supra*. Pinel's attention was turned to the subject of insanity, in 1785, by the death of a friend whose reason was destroyed by persevering study and excessive temperance. This youth fled from his father's house to a neighboring forest, where he was destroyed by wolves, nothing being found of him but some torn fragments of his body and a copy of Phaedra, covered with blood. (Eloge de Pinel, par Pariset, Aug. 28, 1828.)

Salpêtriere, Pinel does not seem to have had any special knowledge of the nature or types of insanity, the facts on which his conclusions were based were not in the main observed by himself, and the crude masses of material accumulated for his prize essay will not be included in a calculation of his available knowledge by any one who knows from experience how eminently unserviceable such laborious learning ever proves.

Take next Pinel's *Traité médico-philosophique sur l'aliénation mentale*, and consider the kind of evidence which he brings forward in favour of his contention (p. 156), that there are lunatics who at no period display any lesion of the understanding, but are nevertheless dominated by a sort of abstract fury *as if** their moral faculties were alone injured. Here is one case.† The patient had an *irresistible desire*‡ to seize an offensive weapon, and to strike the first person that came in his way. A sort of conflict, he said, went on within him unceasingly between the savage impulse of his destructive instinct and the profound horror with which the

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*The words "as if" (*comme si*), seem to imply that the intellectual sanity of the moral maniac was, in the opinion of Pinel, only apparent, in which case he has been grievously misinterpreted by Dr. Ray. The point is not without difficulty; but I incline to the view that Dr. Ray's construction of Pinel's meaning is correct.

†P. 102.

‡I have already noted the startling frequency with which the question begging epithet "irresistible impulse," or one of its synonyms, recurs in the literature of *manie sans délire*. The point is worth elaborating by a few further examples. Jacob speaks of the *bésoin de scandale* of the Marquis de Sade, whose life was a long series of hideous crimes. "*Dissertations sur l'histoire de France. Proces criminaels du Marquis de Sade*," "The unfortunate victim of jealousy becomes *incapable* of attending to his duties, etc. (*Trélat—La Folie lucide.*) The same writer gives us an account of a young eroto-maniac who fell in love with two sisters, and married neither as he could not marry both. It was a great grief to him that he *had not the power* to concentrate his affection upon one alone. (*Ibid*, p. 120.) Again, "Cette jeune femme *n'avait pu resister* a tout de séductions etc. (*Ibid, Erotomanes, Obs. xi.*) *Il se développa en elle* des appétites libidineux insatiables. (*Ibid, Obs. xii.*)

idea of crime inspired him. There was no sign of aberration in his memory, imagination, or judgment. He confessed to me during his seclusion that his murderous impulse was absolutely forced and involuntary; that his wife, in spite of his affection for her, had all but been his victim; and that he had just had time to warn her to take refuge in flight.

Now it is no part of my present case to determine the category to which this gentleman's disease belongs, or whether he is entitled to be considered a lunatic at all. I am dealing with M. Pinel as a scientific observer and apologist. Mark. He has discovered a new type of insanity, differing from all the other types of mental disease in this that *strong criminal impulses* are associated with *intellectual soundness.* "Intellectual soundness," therefore, is the most vital of the *facta probanda.* How does he establish it here? He tells us all about the patient's impulse, and the terrible internal struggle which he professes to undergo. He gives us the patient's testimony as to the character of the malady, and then calmly adds, without proof or data of any kind, "there was no sign of aberration in his memory, imagination, or judgment."

Here is another illustration* "of this species of insanity in its highest development. The patient was a mechanic, confined in the Bicêtre. The access of his disease was preceded by peculiar symptoms—a feeling of burning heat in the intestines, with intense thirst and marked constipation. This sensation of heat spread by degrees over the chest, the neck, and the face, of which it raised the colour. . . . Finally, the nervous excitement reached the brain, and then the patient was overcome by *an irresistible desire for blood,* and, if he could get possession of a sharp instrument, would attempt, in a kind of fury, to take the life of the first person

*P. 157.

who came in sight. At other times," Pinel goes on, evidently unmoved by the strange symptoms of his patient to make any more minute inquiries, or, at any rate, to favour his readers with the results, "*and even then his reason was unimpaired*, and he felt profoundly the horror of his situation." And it is before tales such as this that sceptical lawyers are expected to believe and tremble!

With one other illustration,* I conclude my examination of Pinel's logical method. It is the well-known case of "abstract fury," familiar to every student of Dr. Ray. "An only son, brought up under the eye of a feeble and indulgent mother, acquired the habit of yielding to every caprice and every impulse of a passionate and disordered temper. The impetuosity of his spirit increased and strengthened with his years, and the money which was lavished upon him seemed to remove every obstacle to his imperious desires. Opposition or restraint roused him to fury; he would attack his opponent, and seek to overcome him by force; his whole life was spent in quarrelling and strife. If any animal, a dog, a sheep, or a horse, gave him any trouble, he would kill it on the spot. If he were present at any assembly or fête, he lost control of himself, gave and received blows, and came away bleeding. He was quite reasonable when he was calm, was the owner of a fine estate, which he managed wisely, discharged the other duties of society, and made himself known by acts of kindness towards the unfortunate. But a piece of gross misconduct put an end to his acts of violence. Enraged with a woman who had called him names, he threw her into a well. He was condemned to seclusion in the Bicêtre."

Now, I admit that this lad was intellectually sound—*plein de raison lorsqu'il est calme.* He was also furious. But then his fury was not "abstract," which means, I suppose,

*P. 156.

motiveless—*veut on lui résister sou humeur l'exaspère.* One can only express respectful amazement that a point like this should have escaped the notice of Pinel, of whom Cuvier triumphantly declares,* "il avait cherché d'abord ā former pour les descriptions des maladies un langage précis, modelé sur celui que Linnæus avait introduit en botanique."

Again,† we are not told whether, and, if so, with what effect, this boy had received correction before his seclusion in the Bicêtre. The question at issue is whether M. Pinel's patient acted from an irresistible impulse, *i. e.*, an impulse which he could not resist, but to which he would have yielded in spite of every sanction. Now a man's conduct may be influenced by three sanctions, the religious, the moral, and the legal. It is clear that the first and the second of these were inoperative here. Did this boy's violent conduct ever bring him into contact with the third. . . . . To put down to moral mania, the very disease whose existence is in question, the furious impulses of this misguided boy, in the absence of any evidence that the one sanction which was likely to check them was ever applied, is illogical and absurd.

To sum up the heads of this excursus:

To the end of the 18th century there prevailed, throughout the continent of Europe, profound ignorance of the nature of insanity, and the proper methods of treating and relieving the insane, on the part of the medical profession.

This professional ignorance communicated itself, in an aggravated form, to the clergy, the lawyers, and the laity, and produced the system of asylum administration which has been already described.

Against this infamous régime there gradually arose a strong reaction in the minds of all intelligent men. Every

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**Eloges Historiques*, Tome 3, p. 379.

†Wood Renton's "Monomanie sans délire," pp. 51, 52.

part of it was subjected to hostile criticism, every idea on which it rested was seen to be erroneous, and, on the accidental occurrence of the French Revolution, the system of asylum administration then existing was summarily reversed, as forming part of the old, hateful order of things.

At this moment Pinel, who had drunk deeply at the fountain of revolutionary rhetoric,* launched upon the world his theory of *manie sans délire*. It was not altogether original, he did not invent the name, his secretary supplied many of the data, and the cases which Pinel has reported from his own experience have not enhanced his reputation as an observer or a logician. But the public mood of the day was not critical, the desire of the people was for greater freedom, even for lunatics.† Pinel's doctrine too, seemed to forge a new weapon against the clergy, and *la folie raisonnante* received its revolutionary impulse, and sturdily asserted its existence.

2. I now propose to establish the truth of the proposition that *the causes of the prevalence of the theory of moral insanity have been historical and accidental.* (*a*) *The very fact of its promulgation by Pinel was sufficient to secure it a sympathetic reception.* I am not alluding here to the personal influence which Pinel exercisd over his immediate disciples, or to the legitimate claims of such an attractive and forcible character upon the respectful attention of his

*Take the following illustrations:

"Une, si funeste, insouciance, toujours et éternellement motivée par *l'habitude, raison de tous les abus.*"

Again, "Pensions avec douceur qu'elle va disparaître devant une humanité plus éclairée, plus morale, plus politique."

It is stated that Pinel was an idolatrous admirer of Rosseau, and that, having gone with M. Chaptal on a pilgrimage to the tomb of that celebrated writer, he passed five days and five nights without sleep, and with no more relaxation than was necessary to take food.

†Cp. the well-known instance of the mob releasing an apparently rational patient, who at once seized a hatchet, I think it was, and became as violent and homicidal as the best of them.

countrymen. The public mind was in the mood for novelty, as in politics and religion, so in science, and the teaching of Pinel was novel. *Fame, vinculis, plagis, coercendus est,* said Celsus of the refractory lunatic; and with a few honourable exceptions, all his successors had repeated his dogma, and had sought to carry it out in practice. *L'isolement est notre plus grande punition,* was the declaration of Pinel. Again, to Coulton, who went round the wards of Bicêtre with him, Pinel said, "I am convinced that the insane are so intractable, only because they are deprived of air and liberty." And so* he inaugurated a reign of freedom—*sagement calculée*—which constituted quite a sufficient departure from the ancient régime to arouse the enthusiasm of the iconoclasts of 1789. The theory of *manie sans délire* was another startling innovation upon established opinion—another grave indictment of authority, another blow to the old-fashioned doctrine of human responsibility. What need to analyze the evidence for such a comfortable conclusion, stamped as it had been with the assent of Pinel?

(*b.*) *The relations subsisting between Pinel and his followers tended to perpetuate his opinions and make them sacred.* My object in referring to this point is, not to reiterate what has been already said as to the magnetic attraction which Pinel had for his subordinates, nor to argue *a priori* that the man whose genius fused into a theory the raw material collected by Pussin must necessarily have exercised a profound influence over his followers; I wish to point out that the chief apostles of *manie sans délire* in France derive their

*Pinel became Médecin en Chef to the Bicetre in 1792. He repeatedly, but in vain, solicited authority to suppress the use of iron chains in the case of maniacs. Then he appealed to the Commune of Paris, and obtained leave. At first he released twelve patients only, and on condition that they would put on the strait jacket. In a few days sixty-three were released, with the happiest results. Pinel also conceived the idea of employing the lunatics in work.

authority in unbroken succession from Pinel. Esquirol was the pupil of Pinel.* Chambeyron, Moreau, and Calmeil were the pupils of Esquirol. The same *esprit de corps* which bound Pinel to his immediate followers re-appeared in the relations of Esquirol and his little group of worshippers. "Who has known Esquirol," asks M. Pariset, in his Éloge, "without loving him? Who among you has not admired the delicacy and the solidity of his mind, the elevation and the loyalty of his character, the paternal care which he took of his pupils, the art with which he managed to develop their talent, the pity which animated him for suffering humanity?" "I leave you," said the dying alienist, to Moreau, Calmeil, and Baillarger, "remember me, prosper, but above all never banish peace from among you—that peace which is the pledge of the greatest happiness." Such a *fidei commissum* goes far to account for the wonderful unanimity with which the disciples of Esquirol defended the theory of *manie sans délire.*

(*c.*) *The prevalence of Pinel's opinions in England and in the United States of America has in some measure been due to the unwisdom of the laity and of the lawyers.* Every student of medico-legal literature knows the kind of treatment which the theory of *manie sans délire* has received at the hands of the public. Sometimes the criticism takes the form of epigram—"an irresistible criminal impulse is simply a criminal impulse not resisted"—"if moral insanity is a disease, it must be cured upon the scaffold." At other times there is an affectation of logical precision. "Syllogistically stated," observes one intellectual athlete, exhibiting his prowess in the pages of the *American Journal of Insanity*,† "Dr. Ray's position may be stated thus: 'Men of unsound

*At the Salpetriere—"Eloge ou Esquirol," by M. Pariset, Dec. 19, 1844.

†Vol. 8, p. 249.

mind are irresponsible. Men of unsound mind have reason, judgment, memory. . . . . Men having reason, judgment, memory, are irresponsible.'" Another gentleman breaks out into verse:*

> "Nature is sick, and crime is her disease, . . . .
> Rogues are indicted, tried, convicted too,
> And sentenced for what nature bade them do.
> 'Tis true they're rogues, but nature more than they,
> She made the brain, that led the rogues astray.
> She makes men "lie and cheat and steal and kill,"
> She "gets the better of their better will."
> * * * * * * * * *
> Soon shall the glorious, blissful age arrive,
> When man with nature shall no longer strive;
> When thieves and murderers (shall be) known to be
> Afflicted with a sad calamity."

Now I am not here concerned to inquire into the *justice* of such ridicule. The point is: Was it prudent? Was it likely to *conciliate* the persons who were the butts for its shafts? Here were scientific men deliberately, and in the main, with good temper, putting forward facts in support of a certain conclusion. They were met by the critics and the litterateurs of the day, and by all who could reach the public ear through the press or on the platform, not with arguments which could be answered, but with laughter, which was just sufficiently spontaneous and provoked to cause irritation and pain. Had even the many-headed beast alone been roused to merriment by their reasonings, the English and American alienists would not readily have forgotten its unseemly conduct. But the attitude of the legal profession to the doctrine of moral insanity has united the injured brotherhood of "mad doctors," both in the Old World and in the New, in an alliance that has long seemed indissoluble. That attitude has several phases. Sometime it consists in

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*"The Craniad." I think that this poem is attributed to Francis Jeffrey, the great Scottish lawyer and critic; it was, if I recollect rightly, an attack upon the phrenologists.

presenting such an incident as the following* as a typical case of moral insanity: "Some years ago Juan Antonio Garcia, aged between 35 and 40, was executed for murder at Buenos Ayres. He was a person of some education, and rather remarkable for the civility and amenity of his manners. . . . . When the *vento niorto*, north wind, set in, he appeared to lose all command of himself, and such became his irritability that during its continuance he was engaged in continual quarrels and acts of violence. Before his execution he admitted that it was the third man he had killed, besides being engaged in various fights with knives. When he arose from bed in the morning, he told (Sir Woodbine's informant) he was always aware of its cursed influence upon him; a dull headache first, then a feeling of impatience at everything about him. If he went abroad, his headache generally became worse, a heavy weight seemed to hang over his temples, he saw objects as it were through a cloud, and was hardly conscious where he went. He was fond of play, and if, in such a mood, a gambling house was in his way, he seldom resisted the temptation. Once there, a turn of ill luck would so irritate him that he would probably insult some one of the bystanders; if he met with one disposed to resent his abuse they seldom parted without bloodshed. The medical man who gave me this account attended him in his last moments and expressed great anxiety to save his life, under the impression that he was hardly to be accounted a reasonable being. But to have admitted that plea would have led to the necessity of confining half the population of the city when this wind sets in." Upon the other hand, while such cases as this are placed in the van of the legal assault upon the doctrine of moral insanity, those cases whose fidelity to the legal standard is considered doubtful

*Cited by Mayo (p. 60), from Sir Woodbine Parish's work on Buenos Ayres.

are carefully gathered in the rear. Take the following instance from Buffon:* "I have seen a girl of the age of 12 years, of a brown but lively and florid complexion, small in size, yet strong and plump, commit the most indecent actions at the very sight of a man, from which nothing could divert her, neither the presence of her mother, expostulation, nor punishment. Her reason, however, forsook her not, and the paroxysms, which were so violent as to excite horror, ceased the minute she was left with her own sex." Now I do not affirm that this case does not lie open to criticism. I think it does. Erotic mania is hardly to be established by a story so imperfectly reported, and I should like to have known the nationality of the patient, her rank in life, and, above all, the *intervals* between the paroxysms, before admitting that "her reason forsook her not," and that she was morally insane. Still, this case has undoubted claims to consideration. Buffon was an honest man, and a capable observer. He was not a special pleader for the doctrine of moral insanity. Yet who ever heard of this case, or of cases like this—and there are some—being taken account of by legal critics of the heresy of Pinel?

But perhaps the least pardonable feature in the attitude presented by the law to the teaching of the modern alienists has been the unflinching obstinacy with which the *rules in MacNaghten's case* have been maintained. Regarded as an *absolute definition* of criminal responsibility in mental disease, these rules are ludicrously deficient.† They are not, in the scientific sense of the term, "law" at all, the House of Lords having no legal right to propound, and the judges being under no legal obligation to answer, the famous ques-

*Nat. Hist., Vol. 4, p. 50.

†See an examination of the whole subject in Maudsley's "Responsibility in Mental Disease." The rules in MacNaghten's case are now losing their hold even of the English mind.

tions. They represent accurately enough the state of medical knowledge in 1843, and are still of value, when judiciously manipulated, as rough and approximate criteria of punishable insanity. But the legal profession looked upon them as reverently as if they had fallen from Heaven. New facts might be observed, new types of insanity might be discovered, but the law promulgated after the acquittal of Daniel MacNaghten remained unchanged, its authority was clear as the axioms of Euclid and permanent as the moods of logic, and woe betide the prisoner who appeared before the tribunals in a cloak of mental disease which refused to be measured by the *rules in MacNaghten's case.*

The reasons just enumerated, and perhaps also the legal contempt for expert evidence, which is partly the cause and partly the consequence of legal disbelief in the existence of moral insanity, have in their turn reacted upon the minds of the public, and in particular of jurymen. The following case from *The American Journal of Insanity** is an instance of what I mean: Dr. Abner Baker was tried in 1845 for the murder of his brother-in-law, Daniel Bates. The prisoner was not morally insane, but had long been subject to delusions. In May, 1844, he married a young girl of good position and unblemished character, and was seized with an unfounded belief that she was unchaste—"a victim indeed of nymphomania," adds Dr. Ray, who reviews the case. He suspected her teacher, her uncles, Bates, and even negroes, of being her lovers, and thought that these persons came into his room at night, and were assisted even by his own mother in the execution of their infamous design. The prisoner was found guilty, and was executed on Oct. 3, 1845. In recording this most improper verdict, the jury added the following gratuitous expression of opinion:† "We do fur-

*Vol. 3, p. 26.

†Ibid, p. 32.

ther certify that we did not look upon the authorities which were read to us, on the part of the defence, as *law*, which authorities, or some of them, were Beck's Medical Jurisprudence, Ray's Medical Jurisprudence, and other works." Such a rider was ill-calculated to soften the asperity which Dr. Ray evinces towards the legal profession, and those who share their views as to the criminal responsibility of the insane, or to relax the tenacity of his grasp upon the doctrine of *manie sans délire.*

The case, therefore, stands thus: The doctrine of moral insanity receives its original life-giving impulse from the philosophy of the French Revolution. It has novelty, radicalism, and materialism upon its side. Promulgated by Pinel, the theory of *manie sans délire* is guaranteed by the name and is promulgated by the personal influence of that mighty reformer. The sacred dogma is committed to the keeping of Esquirol, and is by him handed down to a band of pupils and idolators, whom with his dying breath he counsels to unanimity of sentiment, and, presumably, also of belief. Resting as it does upon a residuum of fact, the creed of Pinel is adopted by a number of English and American alienists, who, irritated by ridicule, unfairness, and persecution, are willing to face the pillory of criticism and the horrors of the witness box for its sake. How could it do otherwise than survive? The persecutor of the faithful is the true *Defensor Fidei!*

3. My last proposition is, *That the moral insanity of the modern alienist is quite different from that of Pinel, Prichard, and Ray.*

Towards the close of the 17th century, an acute theological controversy convulsed the holy order of the Jesuits in Paris.* How can man, born as he is in sin, and burdened with actual transgressions, obey the will of God," was the

*Pascal, "Provincial Letters."

question upon which the reverend fathers differed, and this thorny point was handled with a violence which threatened the peace and perplexed the discipline of Holy Church herself. That man had "a proximate power" of ascertaining and following the Divine will was not disputed, but how was this "proximate power" to be defined? The scandal increased; weak brethren stumbled; hated sectaries lifted up their heads. The problem was difficult enough in itself, and fraught with danger, perhaps with schism. But how was it to be settled? And even if a settlement were possible, could the disputants be expected to forget and forgive all the malice and bad language which had marked the fray? But to the wisdom and determination of the fathers all things were possible. It was agreed that each holy Jesuit, when pressed by infidel or heretic, should straightway avow his firm adherence to the doctrine of "proximate power," should place upon this meaningless phrase his own private interpretation, and should at the same time stedfastly decline to state wherein the official definition consisted. By this ingenious *via media*—for which ardent churchmen, however, might be tempted to find a simpler name—the difficulty was solved, and the unity of the church was disturbed no longer. Now, for a time, I presume that the vitality of a doctrine like this might very easily be over-estimated, and I suppose that no one need be deeply moved, although the words "proximate power" retained their place for some considerable time in the creed of the church; the inevitable disintegration was merely postponed. I propose to show that the plastic phrase *manie sans délire* covers as much discussion among alienists as did the words "proximate power" among the Jesuit fathers. In its brief century of existence the creature of Pinel's imagination has entirely changed its character, and would ere this have changed its name also but for the historical circumstances

to which reference has already been made. To the early alienist the distinctive feature, the discriminating symptom, of moral insanity was the absense of *intellectual lesion* in the victims of that disease. This, as we have seen, was the opinion of Pinel; it was the doctrine which Esquirol first doubted* and then believed,† and it was the clear and unhesitating creed of Pagan, Ray, and Prichard. "There is no delirium of the passions, no exaltation of the imagination."‡ "No delusion is present to disturb or distort the mental vision."§ "It is a feature of moral insanity that there is no ground or provocation actual or supposed."‖ I will show that the very point upon which these writers placed such emphasis has been, at first tacitly, and afterwards expressly, surrendered by modern apologists for the theory of *manie sans délire*. Take Trélat's *La Folie lucide*¶ and consider the following cases: 1. Adele B. was a young girl, 14 years of age, and is properly described by M. Trélat as *tres corrompue*. At the mature age of 10 she had slandered her mother to her father. "Very deceitful, and early trained in

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*"Dans le manie sans délire l'intelligence est plus ou moins lésée—l'action intellectuelle est suspeudre."—*Des Mal. Ment.*, Tome ii., p. 5.

†"Ces monomaniaques ne déraisonnent pas, mais leurs affections, leur caractère sont pervertis. La volonté est lésée . . . . . Tantôt les facultés intellectuelles du monomaniques ne presentent aucun désordre, et cependant il est entrainé par un penchant irrésistible, il est poussé par un instinct aveugle a telle ou telle action que lui—meme réprouve obsédé par des idées de vol d'incendie, de meurtre ou de suicide qu'il s'efforce en vain d'écarter, il sent toute l'horreur de semblables désirs et cépendant sa volonté est vaincue."

‡Pagan, *Med. Jour. of Insan.*, p. 132.

§Ray, *Med. Jour. of Ins.*

‖Prichard, *Treat. on Ins.*, p. 22.

¶La Folie ludide, e'tudiée et considerée au point de vue de la famille et de la société. Trélat is not pleading the irresistible criminal impulse theory, nor dealing with criminal responsibility at all. See p. 314. *The marriage* of les alienes lucides is always a source of cerebral danger to the sane party, and very often to the children born of the union.—Cp. pp. 316, 319, 322.

all that she ought not to have known, she was quite capable of inventing this story. At the age of 11 she had left home, and had cohabited with a young apprentice for two months, being herself the seducer and not the seduced. She was then sent to Salpêtrière. She spoke of her conduct without the least emotion or embarassment. "It was great fun, and very agreeable, and I am only sorry it is over so soon." . . . . . She answered exactly all the questions which were put to her, and the world would not have counted her insane. But, and here is the point of present interest, Trélat thinks the world wrong. "Ces personales, ces bacchantes qui sont completement depourvues de la virtu et de la pudeur sans lesquelles la femme n'est point femme sont des êtres trop imparfaits pourvoir user de leur liberté. *Prives d' attributs importants, ils doivent être considérés comme imbéciles, comme incapables et classés comme tels.*" A little afterwards* heagain gives expression to the same idea: "When a man abandons himself, without restraint, to his brutal appetites; when a woman, by her licentious conduct, etc., sinks to the level of a beast, it is because the intelligence, which ought to reign and govern, neither reigns nor governs." 2. Madame de P.† was an aidoiomaniac. "Une des habitations de plaisance avait été instituée et organisée comme une sorte de parc aux serfs, selon les traditions des temps les plus corrompus. Cette jeune femme n'avait pu résister à tant de séductions." Then Trélat adds this note, on which I rely: "*There were several epileptics in the family.*" 3. Madame de X,‡ born and brought up in good society, and trained with the greatest care, displayed in youth the most amiable disposition and well-regulated tastes. She married at the age of 22. "Mais alors . . . . . il ce developpe en elle, des ap-

*Ubi supra*, p. 41.

†*Ubi supra*, Obs. XI.

‡Ibid, Obs. xii.

pétits libidineux insatiables qui ne trouvèrent que trop d' occasions de se produire. . . . . On eut plus tard que dans le moment même ou Madame de X s' abandonnait ainsi ā tous ceux qui l' entouraient, elle se livrait avec la même fureur aux excès d'onanisme." Trélat's comment on the history of the case is "une tante mélancholique, et un perè dissipateux." I will show the relevance of these cases in a little. Take next DuSaulle's *La Folie devant les Tribaneux*, 1864. M. DuSaulle's comments are not of much value for my present purpose, but his *observations* are of great interest. Here are a few specimens: 1. In the following case,* certain moral symptoms clearly mark the incubation of mental disease. "Marie de las Dolores, a shepherdess in the mountains of Segovia, was seduced by Juan Diez. The seducer proposed to Pedro Dominguez, her father, an old man of 65, to marry her, and was repulsed with anger. From this moment, she become melancholy and taciturn, sought the most solitary places . . . . . and never uttered a word to her companions. On 20 March, 1826, she returned in the evening from the hills, and occupied herself with roasting meat on the fire. Her father stepped before it. Suddenly seized with a horrible impulse, she stabbed the old man with the andiron, and stretched him at her feet. At the sight of blood her fury redoubled. She threw herself on the top of him, cut out his heart, roasted, and commenced to devour it. . . . . She was arrested and taken to Segovia. She had entirely lost her reason, and answered the questions put to her only by lamentable cries." 2. The case of William Comstock† turns upon a similar crime. The prisoner was "an epileptic, and subject to hallucinations of the worst description." Commenting

**Ubi sup.*, p. 317.

†P. 319.

upon this case, DuSaulle says,* "Would it not be a calumny upon human nature to suggest that a citizen in sound mental health (*sain d' esprit*), could be capable of eating human flesh?" 3. Again, Marie-Anne B——,† the pyromaniac, has a *Cauchemar*, or spectre, in constant attendance upon her, and which she thinks to drive away by incendiarism. 4. Finally,‡ some years ago, a nun made seven attempts to burn the convent of Dijon. M. Dugast, of the Bicêtre, was ordered to report upon her mental state. "With that remarkable tact which distinguished him," DuSaulle goes on, "M. Dugast . . . . . soon saw that he was dealing with a pyromaniac. In a brilliant report, which roused the admiration of his audience, he proved that this nun did not enjoy, at the time when the attempts were made, moral liberty; that this momentary aberration of her reason rendered her unable to distinguish right or wrong; and that she ought to be considered completely irresponsible for her acts."

Neither Trélat nor DuSaulle expressly repudiates the original definition of moral insanity. But it is a point of the highest significance that these writers labour to prove and to emphasize just that very element of intellectual lesion which the first advocates of *manie sans délire* strove to eliminate.

Such a radical departure from the teaching of Pinel prepares us for the express abandonment of the old theory which we find in the writings of modern medical jurists. "It does not seem probable," says Taylor,§ that moral insanity as thus defined (i. e., by Prichard and Ray), ever does or can exist in any person, without greater or less disturbance of the intellectual faculties. The mental powers

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*P. 321.

†Pp. 463-9.

‡P. 475 and *Ann d'Hyg.*, Vol. 25.

§*Man. of Med. Ins.*, pp. 721, 722.

are rarely disordered without the moral feelings partaking of their disorder, and conversely it is not to be expected that the moral feelings should become to any extent perverted without the intellect being affected, for perversion of moral feeling is generally observed to be one of the early symptoms of disordered reason. The intellectual disturbance may sometimes be difficult of detection; but in every case of true insanity it is more or less present, and it would be a highly dangerous practice to pronounce a person insane, when some evidence of its existence was not forthcoming."*

After such an expression of opinion as this, it seems of little importance to show how precarious the life of "moral insanity" has been, by minor instances of medico-legal conspiracy against its existence. It may, however, be pointed out (1) that, imitating the alleged heresy of the homœopath, the alienists classified mental diseases according to their symptoms, finding themselves obliged to divide the genus "*manie sans délire*" into innumerable species, *folie raisonnante, impulsive, instinctive, monomanie sans délire, etc.*, in which the first vital spark of Pinel's theory is all but quenched, and (2) that the phrase "irresistible impulse" has been applied to cases (*a*) in which a criminal impulse was resisted successfully, or not resisted at all, and (*b*) in which the action of the alleged impulse was spread over a considerable period of time, carefully adjusting itself to opportunity.†

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*Cp. *Medical Record*, May 14, 1887, "Claim of Moral Insanity in its Medico-Legal Aspects," by James H. Lloyd, M. D., and *Jour. of Nerv. and Ment. Dis.*, Vol. xiii., No. 11, 1886, by the same author, "Moral Insanity, a Plea for a More Exact Cerebral Pathology." Also *Annales Medico-Psychologiques*, 1884-'5, (Des Vols. aux étalages. Des aberrations sexuelles), *ibid*, "Les attentats aux moeurs commis par les alienes," pp. 73-95, Dr. A. Giraud.

†The defence of "irresistible impulse" was set up in the case of William Dove, who poisoned his wife with successive doses of strychnine in 1856. This scoundrel, who according to the doctors, was *pousse par un instinct aveugle*, was yet able to interrupt his murderous work when it seemed necessary, to give the minimum dose which would not destroy life, on several

In concluding this thesis, I desire to offer a qualitative estimate of the theory of moral insanity. *What will be its permanent place in the records of forensic medicine?*

1. *It has contributed nothing to the psychology of mental disease.* The disquisitions of the French alienists—feebly paraphrased by their European and American brethren—upon moral liberty and moral responsibility, are the very dregs and rinsings of the human mind, and one can hardly understand how educated men could calmly, in the silence of their closets, commit such nonsense to paper.* We find in their writings constant reference to "the responsibility" of prisoners. We find no attempt to *define*† the conditions

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occasions, so as to create the appearance of natural disease, etc. It is an abuse of language to call this "irresistible impulse." Dove was, very properly, hanged. The best report of his trial is in the Leeds *Mercury* of July, 1856. Again, DuSaulle gives, p. 55, the case of Charles Bentle, aged 37, who wounded a number of young girls, taking the utmost pains not to wound them dangerously. His excuse was that he was impelled by an irresistible impulse, which could modulate itself, observe. He was sentenced to be imprisoned for four years. One can only regret that the lash was not tried.

Esquirol tells the story (Tome ii, pp. 87, 88), of a girl who *hesitated for several days* before yielding to a pyromaniacal impulse.

*Thus Marc. 1, Chap. 2, *De la liberte morale*, p. 84, "Toute lesion bien constatée de l'entendement chez celui qui est inculpé d' un acte criminel detruit la criminalité de cet acte par cela même qu'il doit etre considerée comme involontaire." It is refreshing to read the following critique by a moral maniac upon the supersensitiveness of the alienists to every vestige of mental disease: "Il m'a paru, s'après leur conversation que ces medecins voudraient etablis le systeme d'après lequel un homme peut etre accuse, quoique parfaitement raissonnable, de folie, sur un seul fait, qu'on voudrait lui imputer. Ils donnent a cet absurde systeme le nom de monomanie."—Marc. 1, Chap. 1, p. 36.

†The following passage from Newman's Oxford University Sermons should be branded upon the foreheads of all rash and wordy sophisters: "Half the controversies in the world are verbal ones, and could they be brought to a plain issue, they would be brought to a prompt termination. . . . We need not dispute, we need not prove, we need but define. . . . . When men understand what each other mean, they see for the most part that controversy is either superfluous or hopeless" —S. pp. 200, 201.

on which responsibility depends. By the word responsibility, it is, however, tolerably clear that these gentlemen mean "moral responsibility." Now, consider whether punishment can be apportioned to *that*, by any human tribunal. My moral responsibility depends upon (*a*) heredity, (*b*) the power of resistance within me, and (*c*) the extent to which I choose to exercise it. Into which of these three problems can a legal tribunal satisfactorily inquire? The first is difficult; the second is still more difficult; the third is simply insoluble. Who shall read my *mental history* unless I write it? Yet without that book open before you, you cannot determine my moral responsibility. Maréchal Gilles de Rays, a French officer of noble birth and high reputation, and the companion in arms of Joan of Arc, was tried, condemned, and executed justly, before God and man, for the murder (and violation?*) of a large number of little children. Here, if ever, was surely a case of moral insanity. "There are few persons," says one reporter, "who will read this trial without being tempted to consider the Maréchal as insane." "Qui vous a induit," cried the judge who condemned him, "à ce faire? C'est assurement l' esprit du mal, le teutateur." Shortly, however, before his execution, the Maréchal wrote the history of his crime. In his grandfather's library he had fallen in with a copy of the Lives of the Cæsars, by Suetonius, and had gloated over the horrid deeds by which the later Roman Emperors had disgraced their purple and their kind. A desire to imitate these infamous exemplars entered into his soul, and, carefully fostered there, soon became an *irrésistible bésoin* indeed. Could even the inquisitorial powers of a French criminal

*The story is told by DuSaulle, Jacob (*Curiosités de l'histoire de France*), and I think also by Michelet. From the rhetorical style which these writers adopt, it is difficult to tell whether or not the double crime was committed.

judge have probed to the core a tale like that? And yet who shall say that this strange history of mental corruption was not relevant to the question of the Maréchal's moral responsibility? It was the old story told by Count Cenci to Cardinal Camillo:*

"I love
The sight of agony and the sense of joy,
When this shall be another's and that mine,
And I have no remorse and little fear,
Which are, I think, the checks of other men.
This mood has grown upon me, until now
Any design my captious fancy makes
The picture of its wish, and it forms none
But such as men like you would start to know,
Is as my natural food and rest debarred,
Until it be accomplished."†

*Shelley, Act I, Scene 1, of the Cenci.

†In the preface to the Cenci there is a striking passage upon the possibility of such a criminal as the Count being religious. Its relevance will be apparent to every one that has studied the literature of *manie sans délire*. "To a Protestant apprehension there will appear something unnatural in the earnest and perpetual sentiment of the relations between God and man which pervade the tragedy of the Cenci. It will especially be startled at the combination of an undoubting persuasion of the truth of the popular religion with a cool and determined perseverance in enormous guilt. But religion in Italy is not, as in Protestant countries, a cloak to be worn on particular days, or a passport which those who do not wish to be railed at carry with them to exhibit. . . . . Religion co-exists, as it were, in the mind of an Italian Catholic, with a faith in that of which all men have the most certain knowledge. It is interwoven with the whole fabric of life. It is adoration, faith, submission, penitence, blind admiration, not a rule for moral conduct. It has no necessary connection with any one virtue. The most atrocious villain may be religiously devout, and without any shock to established faith confess himself to be so. Religion pervades intently the whole frame of society, and is, according to the temper of the mind which it inhabits, a passion, a persuasion, an excuse, a refuge; never a check."

2. *To the pathology and medical jurisprudence of insanity the theory of manie sans délire has made most important contributions.* It has established the fact that there is an insanity of character (primäre verrücktheit), as well as of the purely intellectual faculties. It has shown that in such cases *the rules in MacNaghten's case* furnish no adequate criterion of responsibility and the deterrent action of punishment is irregular and unreliable; and it has prepared the way for the adoption of the only satisfactory test of criminal responsibility in mental disease, viz, that each case shall be judged upon its own merits, by the aid of all the light which any relevant circumstances can throw upon it.

# MECHANICAL RESTRAINT IN THE CARE AND TREATMENT OF THE INSANE.

BY CLARK BELL, ESQ.

Dr. WM. ORANGE is one of the most honored and influential names among British Alienists. For many years superintendent of the great Asylum for the Insane called Criminals, at Broadmoor, he has occupied a close relation to the Law Officers of the Crown. He is frequently selected as an expert by the Crown on questions of commutation of sentence of death.

He writes as follows:

12 LEXHAM GARDENS, LONDON, W.,
December 28, 1891.

TO CLARK BELL, ESQ.

*Dear Sir:*—In compliance with your request I send you a few lines on the subject of the use of mechanical means of bodily restraint in the treatment of insane persons; although, in so doing, I am very well aware that I have nothing new to say upon the subject, nor, indeed, anything which has not been much better said, over and over again, in the past.

I have read the extract from Dr. Bryce's report, published in the March number of the MEDICO-LEGAL JOURNAL, and also the letter from Dr. Theodore Diller, the proof of which you have been so good as to send to me, and I cannot for a moment doubt that, if these two papers are read, side by side, so that the manner and matter of the one may be compared and contrasted with the manner and matter of the other, there need be little fear as to the verdict.

Dr. Bryce sets forth his belief in these words: "That the insane, in public hospitals, can be controlled and treated more humanely, and with better results, without the use of strait-jackets, camisoles, muffs, wristlets, restraining chairs, bed-straps, crib-bedsteads, or any other of the various appliances known as restraining apparatus." And then he goes on to say that, for ten years, at the Alabama Asylum, with a household averaging nearly a thousand patients, "there has been no resort whatever to any species of mechanical restraint for either surgical or other purposes;" and further, that there has not "occurred a single case, in the wards of the hospital, during this long period, which seemed to justify or require its use." Thus, in plain language, does Dr. Bryce place on record his experience, and, for my part, I have only to say that, in this matter, my experience corresponds entirely with his.

Throughout the period of sixteen years, from 1870 to 1886, during which I held the office of Medical Superintendent of the Broadmoor Asylum,

which is an asylum established by the Government for the care and treatment of criminal lunatics in England, I did not find it either necessary or desirable to have recourse to any of the appliances enumerated by Dr. Bryce, in the extract quoted, nor did there, throughout that period, occur any case in which, afterwards, I had any reason whatever to regret the non-use of such means of treatment.

Such being my experience, it can readily be imagined that I give my most cordial assent to the terms in which Dr. Bryce states his belief in this matter.

If we now turn from the article of Dr. Bryce to that of Dr. Diller, we find that the contrast in manner and tone is as great as it is in matter.

It would be scarcely fair to assume that the tone of Dr. Diller's letter is characteristic of the school to which he belongs; and it may be hoped that there may be many amongst those who, to a greater or less extent, agree with the opinions which he expresses, who will feel keen regret at the general tone of his letter, and who will take an early opportunity to avow such regret. Dr. Diller, it will be observed, begins his letter by imputing the most unworthy motives to those who differ from him, and he does this in in a manner so offensive as to render the task of taking notice of his letter by no means a pleasant one; and it is to this cause, indeed, that I must, to a great extent, aseribe the delay, on my part, in fulfilling this task; for, if there really be any one who, after reading the writings of Conolly, could venture to make so monstrous a suggestion as that that humane physician, when advocating the disuse of mechanical means of bodily restraint, in the treatment of insane persons, was advocating, not so much what he believed to be right, as what he thought to be politic, I, of my own free will, should prefer to avoid entering into a discussion with such an one. As you, sir, however, have invited comments on this letter, which begins in a manner so unfortunate, I comply, although I must crave permission to make those comments very brief.

Dr. Diller, having commenced his letter with a gratuitous insult to those who venture to differ from him, goes on, in the next place, to sneer at the value of kindness in the treatment of patients suffering from mental disorders; and he ventures on the observation that "kind words," in certain cases, "would do about as much good in deterring these patients, as they would if addressed to a Dakota blizzard in mitigating its force." And here we have a very good example of the danger that is incurred by indulging in the use of illustrations. What, we may ask, has a Dakota blizzard to do with the question? and what similarity is there between a Dakota blizzard and a patient suffering from mental disorder? Does Dr. Diller wish us to understand that, although "kind words" would have no effect in mitigating the force of a Dakota blizzard, yet that complete success in this matter would be attained by the use of "a merciful restraining apparatus?" If this is really what Dr. Diller wishes us to understand, it would certainly be interesting to be favored with an opportunity of examining the kind of "merciful restraining apparatus" which Dr. Diller has been successful in applying to a Dakota blizzard; but if, on the other hand, it should appear, on inquiry, that the attempts made by Dr. Diller to mitigate the force of a Dakota blizzard by means of a "merciful restraining appa-

ratus" have been attended with no greater success than has attended the use by him of "kind words," what becomes of the illustration? I must confess that I find it impossible to regard the letter of Dr. Diller as being one which calls for any serious reply.

It will not escape observation that Dr. Bryce, in his remarks, is speaking of the treatment of the insane in public hospitals, by which expression it may be assumed that the writer is speaking of their treatment in institutions duly adapted for the purpose in view, both as to staff and as to construction. The possibility is always recognized that, under circumstances which are not favorable for the satisfactory treatment of persons suffering from mental disorder, it may become necessary, in some cases, to have temporary recourse to the use of mechanical means of restraint; not, most certainly, because such means are the best absolutely, but only because they are the best under the unfavorable circumstances. Where the choice is limited to a choice of evils, the best course is, doubtless, to choose the least.

Believe me, Dear Sir, yours very faithfully,

W. ORANGE

Dr. RALPH L. PARSONS, a physician of extended experience in charge of public and private asylums, for years a member of the Medico-Legal Society, and one of its former Vice-Presidents, now at the head of a private asylum at Sing Sing, New York, responds to my inquiries as follows:

DR. PARSONS' PRIVATE HOME FOR NERVOUS INVALIDS,
GREENMOUNT, November 10, 1891.

TO THE EDITOR OF THE MEDICO-LEGAL JOURNAL:

*Dear Sir:*—The question regarding the use of mechanical restraint in the management of the insane is so broad and far-reaching that it cannot be satisfactorily answered within the scope of a short letter. In fact, many questions are involved which require separate answers, as:

1. Is mechanical restraint *ever* admissable? The answer to this must evidently be in the affirmative, as when the best endeavors of all the persons available to undertake the care of the insane person are not sufficient to prevent him from doing injury to himself or others; and this lack of ability may depend on a lack of physical strength, or a lack of skill, one or both of which conditions are likely to obtain when the patient is not within the walls of a hospital.

2. Is mechanical restraint ever admissable at a hospital for the insane? If there were an insufficient number of helpers, sufficiently skilled and sufficiently strong, to prevent the insane person from doing an injury to himself or to others, the answer must also be evidently in the affirmative. As many as six or eight persons, well skilled in the management of the insane, are sometimes required for the care of an insane person, when neither mechanical restraint, nor drug restraint, which is a form of mechanical restraint, is in use. And this lack of skilled help was the rule, rather than the exception, in asylums in former times, and is liable to occur at what are now considered as well equipped hospitals for the insane; for it is essential

to the proper care of an excited, dangerous patient that the attendants who undertake his care by their physical strength and powers of moral suasion or tact be sufficiently numerous and that they have abundant opportunity for rest, lest they become so exhausted as to lose their power of self control or their ability to perform their duties in a proper manner.

3. Is mechanical restraint ever advisable at hospitals for the insane which are so thoroughly equipped that all the skilled assistance needed is always at hand? Under this state of things it is safe to say that the patient can always be managed successfully without the use of mechanical restraint, and that usually this method is the best. But yet it would be very rash for any one to say that manual restraint alone would, in all cases, be better for the individual patient than mechanical restraint. The skilled physician in charge should be so untrammeled by rules or by sentiment that he could freely decide this question in any individual case. And it may safely be asserted that most physicians would at some time have under their care patients whom *they* could manage better by means of mechanical restraint than without. That some other physician thought he could manage better without such restraint, or that he really could so manage, would not alter the case. In every branch of medicine, or of any other calling, there are individuals whose skill, in some particular, exceeds that of their fellows; but this does not at all prove that their fellows are unskilled.

4. But there are objections to the use of mechanical restraint based on the theory that it tends to take the place of, or to prevent the employment of, such curative measures as may be indicated; and also that it tends to diminish the efficiency and assiduity of physicians and nurses in their attentions to the patient. It must be admitted that this danger exists. A similar danger exists in the use of narcotic drugs. But a danger of this sort should not be allowed to prevent the doing of what is for the best in any individual case.

The inference from the above would be that, practically, with average expert skill and with all needed help, mechanical restraint is advisable only in very rare and infrequent cases, but yet that even under this state of things it is sometimes advisable; while in lack of such help and skill mechanical restraint is not infrequently advisable.

RALPH L. PARSONS.

Dr. JAMES H. MCBRIDE, medical superintendent of a private institution in Wisconsin, thus replies:

MILWAUKEE SANITARIUM FOR NERVOUS DISEASES,
WAUWATOSA, Wisconsin, December 31, 1891.

CLARK BELL, ESQ., 57 Broadway, New York:

*Dear Sir:*—Your letter is at hand, and I enclose the re-print sent me. I think it is useless to discuss the question of restraint for the insane. It seems to me that nothing new can be said on this subject, and, as I have said once in print, it is one which, from its very nature, will never be settled. The claim that mechanical restraint should not be used at all, because if used it would be abused, is to me a very absurd one. The same argument would apply to chloral, hyoscine, and, in fact, to every drug that is usually

used in the treatment of the insane ; indeed these drugs are much more apt to be abused than restraint, and when abused, the harm that results, much more lasting.

Very truly yours,

J. H. McBRIDE.

Dr. Richard Greene, one of the leading English superintendents of county asylums, replies as follows:

County Asylum, Berry Wood, Northampton,
13th January, 1892.

*Dear Sir :*—My views on the question of restraint or non-restraint have not altered during my experience of twenty-two years in county asylums. I believe it to be *possible* to treat the insane without restraint; but I do not believe it is always *desirable* to do without restraint ; therefore I occasionally resort to it. Perhaps I should say I rarely resort to it. During the year 1891, with an average of 800 patients, I used restraint on one patient, the means used being the stitching of the sleeves of his coat to the sides of the coat. The patient was beating his cheeks to a jelly, and I considered this preferable to the employment of a couple of attendants to control him.

The Commissioners in Lunacy, in their Blue Book for 1888, when speaking of restraint, say, "We could not condemn its employment in every case and without exception, for to do so would, we thought, be adverse to the interests of the insane themselves." This view is, I think, held almost universally by the medical superintendents of our county asylums. Dr. Gardiner Hill, medical superintendent of the Wandsworth Asylum, says in his report for 1890, "Because this form of treatment is unpopular, it is no reason why it should be discontinued altogether, for there are exceptional cases in which the use of restraint may be fully justified."

By the way, you are wrong in attributing to Conolly the introduction of our non-restraint system. It was Gardiner Hill, the father of the above-mentioned Dr. Gardiner Hill, who was the first to abolish restraint. You will find this part of the history of non-restraint worked out by Dr. Richardson in the *Asclepiad* for the third quarter of 1887 ; and I referred to the question in a paper of mine which appeared in the *Universal Review* for August, 1889.

I remain very faithfully yours,

RICHARD GREENE.

Dr. C. B. Burr is a superintendent of long and extended experience in charge of one of the largest hospitals for the insane in Michigan, and his views are entitled to great weight, both from his practical knowledge, and from his long experience in contact with the insane.

EASTERN MICHIGAN ASYLUM, PONTIAC, MICH.,
November 16, 1891.

CLARK BELL, ESQ., Editor MEDICO-LEGAL JOURNAL:

*Dear Sir:*—Your polite note is received. I take pleasure in complying with your request to give my views in the matter of restraint in the management of the insane.

The institution with which I am connected has been committed to non-restraint as a principle for many years, and as a practice, restraint was virtually abandoned long ago. While committed to this principle, however, and believing it to be eternally right, it has not been pursued as a hobby, and the wisdom of mechanical restraint in occasional cases has been persistently set forth and defended.

The *principle* of *non-restraint* is *wise and right*—

1st. Because of the pleasanter relation and better feeling existing between attendants and patients where mechanical restraint is not applied.

The element of personal antipathy and antagonism so apt to to be present in the mind of a patient where mechanical restraint is used—particularly where a high degree of force is necessary to apply it—strains the subsequent relation of the patient to the attendant, and creates a feeling of soreness and disaffection which is apt to be enduring, and which on occasions materially interferes with the patient's recovery.

2d. Because of the danger lurking in the indiscriminate use of restraint.

The confinement of the limbs of a patient suffering with acute mania, for example, creates physical pain, lameness and discomfort, with resulting irritability. Excitement is prolonged and intensified, and the restlessness which springs from disordered brain action, not being given vent or diverted into healthy channels, increases brain perturbation, and may be the occasion of more violent excitement, acute exhastion, and death.

3d. Because the adoption of non-restraint as a principle develops the resources of attendants.

Given restraint as a frequent resource in the management of patients, it is the first expedient thought of, and is applied early and often. The insane energy which it should be the duty of the attendant to divert into useful ways, or repress within reasonable limits, is suppressed altogether. The attendant no longer sets his mind to the work of devising ways and means for individualizing his patients and meeting emergencies. A patient, for example, breaks out a light of glass, and is restrained. The impulse which occasioned the breaking of the glass is relieved by the act of destructiveness. To restrain him after the act is committed, as a rule, merely serves the purpose of increasing his irritability, and encouraging a spirit of lawlessness and violence. The impulse being relieved by the act which it occasioned, to restrain is equivalent to locking the barn after the horse is stolen. The recourse to restraint not occurring to the attendant, he devises ways and means to divert the patient's mind, when at some future time, he is threatened with recurrence of the impulse. He closes the stable door in time to prevent the theft.

4th. Because restraint promotes habits of degradation and untidiness.

The restrained patient is helpless. He cannot go to the closet without the

assistance of the attendants, and even if his mental operations are of such a character that he is able to ask for what he requires, he is perhaps deterred from preferring the request by the antagonism toward the attendant which the application of restraint has aroused. Further, if he is perverse, and bent (as so many patients are under those circumstances), on making the lives of the attendants uncomfortable, he will deliberately soil his clothing to create trouble.

5th. Because of the danger of the formation of the *habit* of restraining.

A patient will perhaps be restrained one day because circumstances have required this action on the previous day, while the mental condition of the patient may be wholly different. A spirit of timidity arises in the mind of the attendant, and he has not the degree of confidence in his patient which is so necessary to their friendly relations. He restrains him one day because of the fear that he may do something which he has done the day before, much to the patient's dissatisfaction, humiliation, and irritation.

6th. Because of the lack of moral or restraining effect upon the minds of patients or their associates where the use of restraint is frequent.

In a non-restraint institution a patient regards the application of mechanical restraint, used only at rare intervals and as a last resort, as an unenviable distinction, and avoids, as far as lies in his power, the necessity for its subsequent use.

7th. Because of the danger which exists of the use of restraint exciting in the mind of some susceptible patient a desire to imitate.

An hysterical, emotional girl, for example, who prefers any distinction, however unenviable, to being ignored, will sometimes deport herself in such a way as to necessitate restraint, provided she sees it used in other cases.

Restraint is, in my judgment, *absolutely necessary and unavoidable*—

1st. In certain surgical cases.

The importance of the use of restraint in certain surgical cases to promote quiet and to prevent the patient from disarranging important surgical dressings, re-opening wounds, and removing splints and bandages, will hardly be denied. No form of manual restraint can in such cases take its place.

2d. It is also absolutely necessary and unavoidable in a *very limited number of cases with homicidal tendencies.*

I should strictly limit its application to such cases as possess great strength and are persistently and determinedly homicidal. Where, notwithstanding employment, diversion, the adoption of various moral measures, and the exercise of all reasonable means to change the patient's mental action and substitute for the homicidal propensities amiable characteristics and natural impulses, efforts are unavailing, and where the great strength of the patient renders struggles with him dangerous to the life or health of himself or his attendants, I believe restraint to be entirely necessary and defensible.

3d. It is necessary and unavoidable in a certain number of *suicidal cases, and in cases where the propensity to self-mutilation exists, particularly if delusions are strong and persistent.*

If a patient displays these tendencies, and has physical strength, determination and cunning to the extent that constant personal attention during the day-time and the presence of a night-nurse during the night are not sufficient to deter him from yielding to his impulses, restraint is practically indispensible.

4th. It is also necessary and unavoidable in *prolonged, furious excitement, such as is seen but few times in a long asylum experience*, where manual restraint exercised by three or four attendants is insufficient to keep the patient within bounds, prevent him from dashing himself to the floor or agaisnt the wall or through the window, in his unreasoning and terrible frenzy.

Restraint is *possibly expedient and justifiable* in aggravated cases of destructiveness.

Here much caution should be exercised. In my experience, not one case in a thousand presenting destructiveness as a symptom would be a proper subject for restraint. Every expedient should be tried, and many tried, re-tried, and tried again, before the last resort (restraint—a confession of failure), is made use of.

On the day that this is written, the Eastern Michigan Asylum has in restraint one patient in 940 cases under treatment, and for the reason last referred to. At the time I began my asylum career, thirteen years ago, the institution accommodated in the neighborhood of 500 patients. Of these, it was at that time thought necessary to restrain upwards of a dozen or fifteen patients daily, and many of them nightly. Thus has reform in our attitude toward patients, and progress in their care, been displayed. With our 940 patients, there is now less noise and excitement, less general untidiness, vastly less irritability and disorder, and a much greater respect for life and property on the part of patients, than then existed, and the relations of attendant to patient are more friendly, and more like those of nurse and companion. Accidents are much fewer and damages far less extensive. Curtains, pictures, mantels, mantel ornaments, and bric-a-brac adorn all halls, without exception. Occasionally a patient in a disturbed hall will, in a moment of irritability or excitement, remove the ornaments from a mantel and throw them out of the window. Such instances are rare, however, and the public spirit among patients of respect for property leads them to co-operate with the attendants in protecting articles of furnishing from the onslaughts of the mischievous and malicious.

In conclusion, I would say (if this conviction is not to be inferred from the foregoing), that I am a thorough believer in non-restraint as a principle, and an earnest advocate of it at all times.

Very truly yours,

C. B. BURR,
*Medical Superintendent.*

Dr. NEEDHAM is a high authority among British alienists, and I quote from his report of 1888, at a time when this subject attracted so much attention in England.

Dr. Needham's report of Barnwood Home contains his views regarding mechanical restraint.

"No mechanical restraint has been used during the year, and seclusion has been resorted to very sparingly and only under exceptional circumstances.

"With a sufficient staff of competent and experienced attendants I consider these abnormal expedients to be practically unnecessary, and their frequent adoption to point to remediable defects which in no institution for the insane should be suffered to exist.

"Both of them are allowable as means of medical treatment, under infrequent and exceptional circumstances, and a superintendent would, I think, be unwise, who repudiated them altogether, because they are unpopular and, when abused, may lead to undesirable results.

"But he certainly would not be justified in their use from motives of economy or to obviate defects in the number or quantity of his attendants or nurses, or to save the trouble of resorting to more complicated, but less objectionable expedients.

"It may be said broadly that the modern practice of approximating asylums as closely as possibible in the furniture and decorations, and in the absence of special asylum features to ordinary dwellings, of removing unnecessary restrictions and extending personal liberty as widely as is compatible with safety and public comfort, has done much to render such methods of management rarely necessary."—*Journal Mental Science*, Vol. 35, p. 243.

Dr. POWELL, the well-known superintendent, in his report for 1888 on the use of gloves as a means of restraint in Nottingham Borough Asylum (England), says:

"The gloves were used in the case of a man who night after night destroyed every article of his clothing, bedding, etc. He continued to wear them for some time, but no sooner were they left off than he resumed his old habit, and, instead of restraining him again, I placed him to sleep in the observation dormitory, and instructed the attendant to prevent him from tearing his clothes.

"The result has been, to a considerable extent, satisfactory. The experience of this case has strengthened the view, which I held before, that where it is possible to keep patients from their mischievous habits by means of personal attention, it should be done by night as well as by day, because there is no doubt that to restrain mechanically has a degrading influence upon the patients, and also has a bad effect upon the attendants; it makes them less energetic and careful if they know that means other than their attention are readily applied to prevent patients doing mischief."—*Ib.*, Vol. 35, p. 432.

Dr. TATE, the well-known superintendent of the lunatic hospital at Nottingham, England, in his report for 1888, says:

"I have much pleasure in stating that another year has passed without either *restraint* or *seclusion* having been been found necessary. During my thirty years of superintendence I have endeavored to avoid the use of either, and with the exception of one instance of the latter, I have so far succeeded in doing so. I have been strongly tempted on several occasions to employ both, but by delaying the evil hour have been enabled to do without either. An occasion might, however, at any moment arise, when I should consider mechanical restraint of some sort not only necessary, but the wisest and most humane method of treatment."—*Ib.*, Vol. 35, p. 432.

Dr. G. A. TUCKER is the author of "Lunacy in Many Lands," and has visited more asylums for the insane than any other ten men in the world together. He has resided in Australia, but is now in London. He says:

"Mechanical restraint, according to Webster's English Dictionary, "Pertaining to, governed by, or in accordance with, mechanics, or the laws of motion; depending upon mechanism or machinery."

I can understand superintendents of very large and perhaps overcrowded asylums, where individual attention to the patients by the superintendent becomes laborious or impossible, with perhaps an insufficient number of attendants, adopting restraint as a means of security and relief from anxiety.

The same may apply to the superintendent who undertakes other duties than those appertaining to his office of medical superintendent, work that calls him away from his patients for a considerable portion of the day, and there are some whose time is greatly taken up with outside duties.

My opinions on this subject are strongly expressed in my book, "Lunacy in Many Lands," which please refer to.

"Pleasant surroundings, occupation, and adequate individual attention and treatment, are effective substitutes for restraint."

I found 219 asylums using restraint, and 118 asylums where no restraint is used.

"As a rule, where restraint is most used, it will be found that the management is the most defective."

G. A. TUCKER.

Dr. YELLOWLEES, who has been President of the British Medico Psychological Association, and perhaps the foremost of English alienists who seek to introduce mechanical restraint in British Asylums, defends the system. His reply is as follows:

ROYAL ASYLUM, GARTNAVEL, GLASGOW, Nov. 21, 1891.

CLARK BELL, ESQ., EDITOR OF THE *Medico-Legal Journal:*

*Dear Sir:*—I fully appreciate the compliment you pay me in desiring—through your letter to our mutual friend, Dr. Ireland—to know my views on non-restraint.

I have already given them so fully in our *Journal of Mental Science* for January, July, and October, 1889, that you must please forgive me if I refer you to these writings. The first is the fullest, but I content myself with a short quotation from the latest.

I also send you herewith the "deliberate opinion" of our Medico-Pychological Association on the subject. You will find it in paragraph 22 of the accompanying report, and we have few who differ from it.

"The question whether the use of restraint is ever beneficial, and therefore right, in the treatment of the insane, might surely in these days be considered on its own merits, and apart from traditional authority or personal bias. There is no other question of medical treatment about which physicians may not legitimately differ, and agree to differ; but let anyone dare to think or act independently as regards this particular treatment, let him dare say that restraint prescribed by a humane and experienced physician is totally different from the restraint inflicted by cruel or unenlightened men in bygone days, and he at once encounters reproach and blame, as if non-restraint were a rule revealed from heaven, whose universal obligation and absolute wisdom it was little less than sacrilege to question.

"Is not an asylum in its very nature a place of restraint as well as of treatment? Is not seclusion but a loose kind of personal restraint? Is it not interferenee with personal liberty to feed by the stomach-tube, and a yet greater interference to inject poisonous drugs into the tissues? Yet all this may be right and proper and praiseworthy; but if you dare under any conceivable circumstances to fasten the patient's hands, or to swathe him in blankets, you have committed an outrage on humanity, and deserve the direst censure.

"This *reductio ad absurdum* obviously needs some excuse, and when reason fails them, the extremists fall back on sentiment. They pose before the public as the special friends and protectors of the insane, declaim against backsliders, and prophesy the re-degradation of the insane and the return of all the horrors of the restraint; all because some physicians, who are as humane and benevolent as themselves, and their equals in skill and experience, decline to accept the rule of absolute non-restraint, and believe that in certain rare and exceptional cases restraint may be the best and the kindest treatment. The excuse is bad, and the sentiment mistaken,

The abuse of anything can never condemn its proper use, and the tacit assumption that the devotees of non-restraint are kinder, more humane, and more anxiously considerate of the welfare of the insane than their medical brethren is uncharitable and groundless."—Dr. Yellowlees, quoted from *Journal of Mental Science* for October, 1889, p. 478.

Yours very faithfully,

D. YELLOWLEES.

Dr. Yellowlees enclosed me a copy of a report of a select committee appointed by the British Medico-Psychological Association at the annual meeting of 1890 to formulate propositions as to the care and treatment of the insane, composed of Dr. Yellowlees, President, and Drs. Clouston, Ley, T. McDowall, Needham, Hayes, Newington, Rogers, Savage, Hack Tuke, Urquhart, Whitcombe, and Ernest White. The report contains thirty-two clauses or paragraphs of opinions, as formulated by that committee, the first nine of which are "Regarding Insanity Generally," the next eight (10 to 18), "Regarding Patients in Asylums," the next eight of which (18 to 25) are "Regarding Special Classes of Patients," and the last seven (No. 26 to 32, inclusive) are "Regarding Administrative Staff, &c., of Asylums."

Paragraph 22 of this report, to which Dr. Yellowlees refers in his letter, is as follows:

"22. In exceptional cases, seclusion and restraint are needful and beneficial. They should be used without hesitation, but only as a means of treatment, and by medical order, and their use should be recorded with punctilious care."

I take occasion to cite paragraph 21 from the same report, as germane to the discussion, though not quoted by Dr. Yellowlees, which is as follows:

"21. Concerning dangerous and destructive cases, abundant exercise or occupation in the open air, an ample staff of attendants, attractive surroundings, and the wise use of baths and of calmative medicines, suffice for the care and treatment of many cases of this class, without any need for restraint or seclusion.

"The admission into county or borough asylums of prisoners who have become insane is much deprecated, since their influence is subversive of morality and discipline."

PRESTON LODGE, PRESTONPASS, EAST LOTHIAN,
SCOTLAND, 9, 11, '91.

*Dear Sir:*—I have transmitted your letter, with the enclosures, to Dr. Yellowlees. In the *Journal of Mental Sciences* of January, 1889, p. 621, you will find not only his opinion on mechanical treatment, but those of some other physicians experienced in the treatment of insanity. My own views are given on page 625.

It seems to me that in some cases of extreme violence and restlessness mechanical restraint is more efficacious and less irritating than treatment exercised by the muscular resistance of attendants.

It has been abused in times past, but not more so than muscular force has been.

It has been well said that, in this country at least, the use of mechanical restraint is a measure of the conscientiousness of the Superintendent. A selfish, calculating superintendent would not use it at all. He would know that he was in danger of censure for so doing, and would prefer throwing the burden and danger upon the attendants and the patient.

From the debate reported, you will see that the superintendents at the meeting were unanimous in favor of mechanical restraint on some occasions, though they might differ as to the frequency of these occasions.

Hoping this may find you well, I remain—

Yours truly,

W. W. IRELAND.

TO CLARK BELL, ESQ.

The communication of Dr. Yellowlees brings to mind the exciting discussion in England regarding the subject of mechanical restraint as practiced at Bethlem Hospital.

This had originally been conducted in the lay press, as we recollect it, by writers in the London *Times* and elsewhere, prominent among whom was the celebrated Dr. John C. Bucknill, who had attacked an apparent return to the use of mechanical restraint in that hospital.

At the meeting of the British Medico-Psychological Association, Nov. 8, 1888, Dr. Clouston, the President, in the chair, in Edinburgh, Scotland, Dr. Yellowlees introduced the subject in an elaborate paper in defense of "one of the ablest and best-known of our asylum physicians, who has been arraigned for the undue use of restraint, and arraigned by one of the best-known and most distinguished psychologists in the country, joint author of the largest and best-known of all the

treatises on Psychological Medicine," as stated by Dr. Yellowlees in his paper, alluding to Dr. Savage on the one hand and Dr. John C. Bucknill, on the other.

Dr. Yellowlees has stated in his letter the summary of his views, but what he did say, as reported in the January number, 1889, of the *Journal of Mental Science*, pp. 621, *et seq.*, was then understood and probably intended, more from a feeling of loyalty, and as a defense of Dr. Savage, than a justification for any retrograde step in British asylums as to the use of mechanical restraint in such ways as it was then employed in so large a number of American asylums.

The language employed, however, was quite broad enough to encourage that large class of superintendents who resorted to mechanical restraints quite generally in their practice, and was a blow to the efforts of those who endeavored to eliminate acknowledged abuses, by its total abolition, as a choice of the lesser of two evils.

It was true that in England opprobrium attached to those known to use mechanical restraints, and Dr. Yellowlees remarks were a decided protest against such a fact, when its use could, in his opinion, be justified in the rare and extreme cases, which he designated as—

1. In cases where the suicidal impulse is intensely strong.
2. In cases of extreme and exceptional violence.
3. In extremely destructive cases.
4. The helpless and incessantly restless patients.

In the discussion that followed at that meeting there was no marked dissent, though many differed with Dr. Yellowlees, and Drs. Ireland, Robertson, Trumbull, Urquhart, Howden, Rorie, Rutherford, Watson, Johnstone, and the President, Dr. Clouston, participated.

It was a peculiar situation, and the assault upon Dr. Savage had been so severe and serious that, considering his

relation to the Society and its journal, marked dissent would have been regarded as almost a personal assault upon him.

Dr. Robertson voiced perhaps the correct sentiment in saying—

"That he was sure Dr. Savage had not used restraint unduly. He thought it hard that the man who was doing something to cure his patients should be abused, etc., and on this account he held Dr. Savage deserved the sympathy of the Association."

There was not one member who spoke against the use of restraint, of those present, on principle, and the discussion was in such form that it would have been a substantial censure of Dr. Savage to have done so.

The questions involved, were, however, higher than personal considerations, or the mere opinions of men, no matter how prominent.

The real issue was, underneath all, should English superintendents abandon the ground almost universally held for the past half century and resume restraint in practice in the individual discretion of superintendents who believe it easier to resort to it than to dispense with it.

The protest that attracted most notice was the vigorous one of the distinguished Dr. Alex Robertson, physician to the Royal Infirmary and City Parochial Asylum of Glasgow, Scotland, who published his views in the April number of the *Journal of Mental Science*, 1889. I give his letter as a part of the present discussion:

To the Editors of the Journal of Mental Science:

*Gentlemen.*—The Journal for January of the present year contains a report of an important discussion "On the Use of Restraint in the Care of the Insane" at the Edinburgh meeting of the Association in last November. As I was unable to be present, I ask you to be so good as to permit me to express my views through the medium of your columns on this very important subject. I learn from the report that it has been the occasion of a controversy in the *Times* between leading members of the profession in the south, but as I have not seen the articles on either side, my remarks can in no way be influenced by the opinions of any of the writers.

Many, like myself, will have learned with no small surprise that the use of mechanical personal restraint, to a somewhat considerable extent, is advocated by physicians in charge of leading asylums. Hitherto even intelligent laymen, when they have had occasion to refer to the evidences of progress in the nineteenth century, have in illustration pointed with pride to the non-restraint system of treatment in our asylums for the insane. Distinguished Continental and American physicians have studied it in operation in these institutions, and recorded their high appreciation of the results. Its beneficent influence has also extended to many of the asylums of other lands. While I write, the biennial report of the Alabama Insane Hospital has just been received. Dr. Bryce, the physician-superintendent, in referring to "the abolition of all mechanical restraint" some years ago, remarks: "Every year's experience since that notable event has impressed me more and more forcibly of its supreme wisdom and efficacy; our wards are as quiet under this system as those of any well-ordered private family." After many more remarks of a similar kind, he closes with a note of warning, "Let us see to it that we take no step backward."

Many of us can still recall the gratification felt on the presentation of of the bust of Conolly by the late Baron Mundy, M. D., to the Association, and afterwards through its representatives to the Royal College of Physicians of London. That eminent physician, in his eulogy of Conolly on the occasion of its formal acceptance by the College, said, addressing the chair, "You have been enjoying for almost a quarter of a century the work of the great man who is no more, and still your neighbors, close to your shores, have yet, at the moment I address you, two thousand unfortunate beings tied in strait jackets . . . and the total number of insane on the Continent confined in cells, fastened in beds, and strapped up in strait jackets amounted in 1867 to fifty thousand. It is for me as a foreigner a humiliation, and perhaps at the same time a proof of my professional courage that I denounce these facts before so high an authority as yourself, and on so solemn an occasion as this of to-day." The President of the College, the late Sir Thomas Watson, in the course of his reply, remarked: "His (Conolly's) name will go down to a remote posterity, and be reckoned among those of the greatest and most noble benefactors to a very suffering portion of the human race that our profession and our country have ever produced." Little did either of these eminent men then think that within twenty years of the time they spoke, physicians of eminence at the head of some of our chief asylums would have advocated a return to the use of measures of restraint whose all but total abolition was the special glory of Tuke at York, and Conolly at Hanwell, and reflected honor on the land of their birth.

[TO BE CONTINUED.]

# TRANSACTIONS.

## MEDICO-LEGAL SOCIETY—JANUARY MEETING.

PRESIDENCY OF CLARK BELL, ESQ.

Medico-Legal Society met January 13, 1892, at the Hotel Brunswick. President Clark Bell in the Chair.

The following persons were elected to membership:

ACTIVE MEMBERS.

Proposed by Clark Bell, Esq.: A. M. Phelps, M. D., 40 W. 34th street, New York.

Proposed by Dr. A. M. Keener: John B. Cantrell, M. D., Burt, Choctaw Nation, Indian Territory.

Proposed by William H. McIntyre, Esq.: Hon. E. W. Bartlett, Solicitor-General New Mexico, Santa Fe; Hon. E. P. Leeds, Justice of Supreme Court New Mexico, Santa Fe; Hon. Max Frost, New Mexico, Santa Fe; Hon. F. W. Clark, Albuquerque, New Mexico; Hon. W. H. Clark, Justice Supreme Court, Los Angeles, Col.; Stephen M. White, Esq., and C. C. Stevens, Esq., Los Angeles, Col.

CORRESPONDING MEMBERS.

Proposed by Clark Bell, Esq.: Edmond Bancks Whitcombe, M. R. C. S., President British Medico-Psychological Society of England; Robert Baker, M. D., President-elect for 1892 of British Medico-Psychological Association, England.

Dr. A. M. Keener was elected Vice-President of the Society for Chickasaw county, Indian Territory.

Clark Bell, Esq., then delivered his retiring address and

introduced President-elect Judge Henderson M. Somerville, who delivered his inaugural address.

The Society adjourned at 7:30 P. M., to attend the annual banquet.

WILLARD C. HUMPHREYS,

*Secretary.*

## FEBRUARY MEETING.

PRESIDENCY OF JUDGE H. M. SOMERVILLE.

February 10, 1892, Society met at Hotel Imperial. Judge Somerville, President, in the Chair.

The minutes of the December meeting, 1891, and of January meeting, 1892, were read and approved.

The following persons were duly elected:

ACTIVE MEMBERS.

Proposed by Clark Bell, Esq.: Dr. Abd-el. Massih Mussawir, 71 Broadway, New York; Signor Ricardo L. Trumbull, Santiago, Chili; J. T. Graham, M. D., Wytheville, Va.

Proposed by William H. McIntyre, Esq.: Hon. Thomas Catron, Santa Fe, New Mexico; W. E. Coons, Esq., LL. B., Santa Fe; Hon. B. M. Thomas, M. D., Secretary of the Territory, Santa Fe, New Mexico; J. P. Victory, Esq., District Attorney, Santa Fe, New Mexico.

Proposed by Judge Somerville: Judge E. S. Hammond, Memphis, Tenn.

Proposed by M. Ellinger, Esq.: Eugene Cohn, Esq., *Evening Post* building, New York.

CORRESPONDING MEMBERS.

Proposed by Clark Bell, Esq.: Dr. Bigelow T. Sanborn, Superintendent State Insane Asylum, Augusta, Maine.

The Executive Committee reported its organization, with Clark Bell, Chairman, and M. Ellinger, Secretary; that the Committee had authorized the officers to contract with the

MEDICO-LEGAL JOURNAL for Vols. 10 and 11 on the same terms as previous contract for Vols. 8 and 9.

Approved by unanimous vote of the Society.

Mr. Clark Bell read a paper entitled "Medical Jurisprudence, the Bar, and the Judiciary."

Judge Somerville spoke of the influence of the MEDICO-LEGAL JOURNAL, and of its editor, Mr. Clark Bell, in obtaining the results to which Mr. Bell had alluded, in judicial action on the "right and wrong" theory, citing his own knowledge on that subject.

Mr. Ellinger spoke of the hostility existing between lawyers and doctors engaged in medico-legal cases.

Mrs. Sophie McClelland read a paper entitled "Criminals the Products of Hereditary Degeneracy," which was discussed.

Mr. Bach spoke of the influence of education and physical training in eradicating this tendency, also of this plea set up by criminals as a defence for crime.

Mr. Ellinger spoke of the superior maternal influence in the transmission of both good and bad tendencies.

Professor Edwin V. Wright spoke of the tendency to confound education with environment in discussing this problem.

Dr. H. S. Drayton spoke of the influence of education in reforming criminals.

Mr. Ellinger moved that the reading of the announced papers on "Mechanical Restraint of the Insane" be postponed until the March meeting. Carried.

Mrs. Sophie McClelland proposed the following resolutions:

WHEREAS, We have noted with keen interest and approval the action of the London Society for the Study of Inebriety in regard to plans and purposes proposed by them in their management of all cases connected with drunkenness, in the formation of a commission of medical and legal experts to act conjointly in investigation, classification, treatment, and

mode of punishment, believing that reform in the penal management of drunkenness must come by classification of offenders.

*Resolved*, That we endorse the action of the London Society for the Study of Inebriety.

*Resolved*, That the President appoint a select committee, composed of legal and medical men, for the same purpose.

*Resolved*, That the committee be requested to determine what, if any, legislation is needed to protect the rights of the inebriate or to lessen the volume of crime due to the use of stimulating beverages.

Mr. Ellinger moved that the resolutions be referred to the Executive Committee. Carried.

Signor Ricardo L. Trumbull was elected a Vice-President of the Society for Chili.

Mr. Ellinger moved that the announcement by the President of the standing committees be further postponed and announced in the JOURNAL. Carried.

Society then adjourned.

CLARK BELL,
*Secretary.*

## MARCH MEETING.

PRESIDENCY OF H. M. SOMERVILLE.

The Medico-Legal Society met March 9, 1892, at Hotel Imperial, President H. M. Somerville in the chair, Mr. Clark Bell acting as Secretary.

The minutes of the February meeting were read and approved.

On recommendation of the Executive Committee, the following gentlemen were elected as active members:

Proposed by Clark Bell, Esq.: Dr. Dwight Shumway Moore, Assistant Superintendent Insane Hospital, Jamestown, North Dakota.

Proposed by Judge Somerville: Dr. LeRoy Brown, No. 104 W. 81st Street, New York City.

Proposed by Dr. Bettini de Moise: Ex-Judge Abram H.

Dailey, of Brooklyn, N. Y.; James D. Bell, Esq., Brooklyn, N. Y.

On ballot, the gentlemen were elected.

A paper entitled "The Criminal Insane," by Dr. J. T. Graham, of Wytheville, Va., was read, in the absence of the author, by Dr. L. L. Mial.

On the discussion of the paper the President called Dr. I. N. Quimby, of New Jersey, to the chair, and made some observations upon the paper, and gave an interesting account of his experience upon the bench of Alabama. He was one of the Board of Trustees of the State Hospital of Alabama.

While at the hospital one day, he was accosted by a man, an inmate, who had been acquitted on the charge of murder by pleading insanity, which he simulated under his counsel's advice, giving details of the manner in which he succeeded, by simply looking constantly at one place in the floor and never looking away from that place, and manifesting no concern as to the trial.

The law of the State of Alabama was subsequently amended on recommendation of the speaker, touching the points named in the paper.

Mr. Clark Bell spoke briefly on the subject, alluding to the doubtful right of the State, in a clear case of insanity, to restrain the liberty of one who had committed a homicide while insane, after he was fully restored to reason; that by the law of England and all American States an insane person was not guilty for acts which would be criminal in the sane. He criticised the the term "criminal," as applied to the insane called criminals, as a misnomer.

The responsibility for the simulation spoken of by Judge Somerville, in Alabama, was not the fault of the existing law, but in the law officer, and perhaps the want of knowledge of the medical experts, if any were called.

Judge A. L. Palmer, of the Supreme Court of New Brunswick, Dominion of Canada, spoke as to the paper, and stated the present practice in the courts of the Dominion of Canada in cases where the defense of insanity was pleaded in the criminal courts. He approved of the writer's views in the main.

Dr. I. N. Quimby, of New Jersey, favored the doctrines of the paper.

MECHANICAL RESTRAINT OF THE INSANE.

The chair called up this subject, and the letter of Dr. W. W. Ireland, of Scotland, was read by Mr. Clark Bell, as was also one by Dr. George A. Tucker, of Australia, now in London, author of "Lunacy in Many Lands."

The letter of Dr. J. H. McBride, of Wauwatosa, Wisconsin, was read by A. W. Cochrane, Esq., of Alabama.

The letter of Dr. William Orange, of 28th Dec., 1881, was then read by Clark Bell, Esq., as was that of C. B. Burr, of the Michigan State Asylum, at Pontiac.

The letter of Dr. Richard Greene, of the county asylum at Berry Wood, Northampton, England, was read by Mrs. S. E. K. Ames, late principal of the female seminary at Mechanicsville, N. Y.

The communication of Dr. Ralph L. Parsons was read by Dr. F. Q. McQuaid, late assistant physician at the Pennsylvania State Hospital for the Insane, at Norristown, Pa.

Discussion upon the subject followed, in which Dr. I. N. Quimby, of New Jersey, the President, and Mr. Clark Bell participated.

Dr. Tracy, assistant physician at Kings County Insane Asylum, said he would submit his views briefly, in writing, to the Secretary.

The chair announced that the subject would be resumed at the April meeting.

The resignation of John H. Watson, as Trustee, was accepted.

On motion, unanimous consent was asked on the suspension of the by-law, and granted, to fill the vacancy at this session.

Ex-Judge Abram H. Dailey was, on ballot, duly elected Trustee, vice Watson, resigned.

Society adjourned at 11:20 P. M.

CLARK BELL,
*Secretary.*

# EDITORIAL.

## SEPARATE ASYLUMS FOR INSANE CRIMINALS.

There is no difference of opinion among alienists, superintendents of asylums, or those who have considered the subject, that the placing of the innocent and harmless insane in contact with those who have been criminals, is inhuman, and an outrage. But one sentiment exists among such, that this should at all hazards be avoided.

Hon. William P. Letchworth has addressed a memorial to the New York Legislature, taking high and strong grounds against the Assembly bill now pending before that body to make an appropriation to open the asylum for the insane called criminals, at Auburn, N. Y., as a receptacle for the respectable and unfortunate insane.

We concur entirely with Mr. Letchworth. We protest against such a measure.

It is against public policy. It is a retrograde movement. We hope the bill will be defeated.

## THE HOLTZENDORF FUND.

This movement, to advance the science of criminal law, has been formed, with its headquarters at Berlin, Germany.

It took shape at Christiana, in August, 1891, and there completed a provisional organization.

The provisional committee was Prof. Liszt, of Germany; Prof. Prins, of Belgium; Prof. Rivier, of Belgium; and Prof. Westlake, of England.

The great name of Franz Von Hottzendorf was selected as

an appropriate pedestal to build upon as a memento of the renown incident to his life and career.

A constitution was adopted, and a foundation committee selected of 144 members of all nationalities, and a Board of directors provided for, to be chosen three by the foundation committee, and at least thirteen others by scientific bodies in various countries of the world in sympathy with the movement.

The following were chosen by the foundation committee on that board: Judge Aschrott, of Berlin, Germany; Prof. Von Hamel, of Amsterdam, Holland; and Prof. Prins, of Brussels. Dr. Rosenfeld, of Halle, was chosen Secretary, and Ferdinand Reichenheim, Esq., of Berlin, as Treasurer.

Contributions for this fund should be sent to the Secretary, Dr. Rosenfeld, at Halle, Germany, Jagerplatz 3.

Jurists and students of criminal law throughout the world are invited to co-operate and write.

Information in America can be obtained by addressing the editor of this journal, who is a member of the foundation committee.

## EQUITY.

Selden, is credited with saying many years ago, "For law we have a measure, and know what to trust to. Equity is according to the conscience of him that is chancellor, and as that is longer or narrower, so is equity.

It is all one, as if they should make standard for the measure of a chancellor's foot. What an uncertain measure would this be? One chancellor has a long foot, another a short foot, a third an indifferent foot. It is the same thing with the chancellor's conscience."

## DRUNKENNESS IN ENGLAND.

The reports of all convictions for drunkenness in England and Wales for the year 1890 have been made. The total

convictions were 173,036 persons. In London the convictions were 23,212.

Of the total convictions 15,492 were convicted for being drunk on Sundays.

If these were the convictions, who shall say what the volume of drunkenness was that was not followed by convictions.

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## THE INTERNATIONAL MEDICO-LEGAL CONGRESS OF 1893.

The following gentlemen have recently consented to read papers before that body in addition to those previously announced:

Dr. Frank P. Norbury, assistant physician hospital for insane, Jacksonville, Ill.: "The Medico-Legal Considerations of Insanity following Traumatism;" Milton Brown, Esq., Garden City, Kansas; Dwight S. Moore, M. D., assistant physician hospital for insane, Jamestown, North Dakota; T. Gold Frost, Esq., Minneapolis, Minn.; Prof. Marshall D. Ewell, Chicago, Ill.; R. S. Guernsey, Esq., of the New York Bar.

Negotiations are going forward as to the place of holding this Congress, with indications that it will be held in Chicago, Ill.

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## THE ROLL OF MEMBERS OF THE CONGRESS.

The enrolling fee for the International Medico-Legal Congress of 1893 is $3, which can be remitted to the President or Secretary, which entitles the member to the Bulletin of that Congress free of charge.

The recent enrollments are Frank P. Norbury, M. D., Jacksonville, Ill.; Dwight S. Moore, M. D., Jamestown, North Dakota; T. Gold Frost, Esq., Minneapolis, Minn.; Milton Brown, Garden City, Kansas; Marshall D. Ewell,

M. D., Chicago, Ill.; A. M. Keener, M. D., Burt, Indian Territory; Ex-Gov. B. T. Biggs, of Deleware; F. T. Fuller, M. D., Raleigh, N. C.; J. J. Hendrich, M. D., Holland; Prof. Dr. Hedonius, Upsala, Sweden; Robert Ingersoll, Esq., New York City; Dr. G. Edward Potter, Newark, N. J.

Members, subscribers, and others desiring to enroll, will please forward their names and addresses.

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## ELECTROCUTION.

The repeal of the sections of the bill prohibiting the publication of the details of capital executions by electricity, will doubtless terminate the objections to the use of electricity in capital punishment, except the occasional objector, and, of course, those who oppose capital punishment for crimes at all.

The leading New York journals published minute details of the last execution at Sing Sing, and the New York *Herald* had an extensive illustration of the execution itself, as did several other of the daily journals.

The fact was, however, demonstrated beyond doubt or cavil that death was instantaneous and painless.

From a scientific standpoint, the method of execution now employed may be said to be completely successful.

I observe that a movement has originated in the French Senate to introduce electrocution in France.

A distinguished member of that body has brought up the question there, based upon the success of the executions in the State of New York.

I consider the guillotine as instantaneous in its action, and it must be painless, but the shedding of blood is objectionable, and must, to some minds, be revolting.

All things considered, so long as the death penalty is inflicted, death by electricity is less objectionable than any other mode now known or practiced.

## HYPNOTISM.

An International Congress of Hypnotism, or of Psychological Experiment, is announced for August 2, 1892, in London, under the presidency of Mr. Sidgwick.

The committee of reception consists of eminent names, among whom are Bain, Ferrier, Galton, Hodgson, Horsley, Hughlings Jackson, Mercier, Croom Robertson, Romanes, Herbert Spencer, Stone, Ward, and Watteville.

Enrolling fee of Congress, 10 shillings. Address either of the honorable secretaries, Mr. F. H. Myers, Lockhampton House, Cambridge, or Mr. James Sully, East Heath Road, Hampstead, London N. W. All communications should be sent before the end of June, 1892.

The Society of Hypnotism founded in 1891 in France announces a prize of 800 francs for a work on any subject relating to hypnotism or psycholocic psychology. Dr. Liebault, of Nancy, contributes the sum. This society is formed for the investigation of the chemical, medico-legal, or psychological study of hypnotism.

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## CRIMINALITY—WOMEN REFORMATORIES.

In discussing with a well-known judge of our criminal court in New York what to do with a young girl convicted the second time of petit larceny, under remarkable circumstances of what seemed to be *instinctive criminality*, as there were no criminal associations, but only an overpowering propensity for stealing small sums, forging names for small sums, in one case under $10, and in another under $2, the want of a suitable place to send the girl was bewailed by the judge, who finally sent her to the Tombs for only a short sentence, with an apparent certainty of a repetition of similar offenses. She was under 20 years of age, and the charges of forgery had not been pressed.

The Assembly bill introduced by Mr. William Sulzer in

the New York Legislature will meet a defect in our penal system.

The measure proposes to create a Womans' Reformatory in New York or Brooklyn where young females between 15 and 30 years of age may be committed.

I believe that one institution of this character now exists in Hudson, N. Y., and one is contemplated at Albion, in the county of Orleans.

At present girls over 16 years of age are and have been committed to the city prisons, the workhouses, and the penitentiary.

Our New York system creates confirmed criminals of young girls, who might be saved from such a destiny by a reformatory.

What chance remains to a girl of 16, convicted of no matter how slight an offense, who is thus incarcerated? The wrong wrought by the operation of the law in destroying all hope of reformation in such cases is frequently much greater than the petty offense against society which is made the occasion of the ruin of the juvenile offender.

The New York *Tribune* correctly claims that that large class of women who are committed to the workhouse, time after time, are the direct results of the present penal statutes of the State.

Our penal system manufactures female criminals, and cuts off all avenues or hope of reformation.

Death has been the only exit from such a life. Is it not time to establish a female reformatory? And would it not be well to have a certain number of women on the Board of Managers?

I hope to see Mr. Sulzer's bill pass, with power in the Board to discharge where evidence of reform is clearly apparent.

## THE CASE OF E. M. FIELD.

Great public interest has been felt in this case, where indictments have been found for forgery, and where a large number of experts have been called.

Field was, as we understand it, committed to an asylum, under the certificate of two physicians.

While in the asylum the indictments were found.

On his trial being moved on the preliminary hearing before a jury, a large array of medical witnesses were sworn, the issue being whether the prisoner had capacity to plead.

That jury disagreed. The circumstances appear in the following opinion, handed down March 16, 1892, which is as follows:

"The issue involved in this preliminary trial of the case at bar was to determine the question, not of the defendant's guilt or innocence of the crime for which he had been indicted, but whether his mental condition was such that he could understand the nature of the proceedings and conduct his defence. This investigation can be conducted by the Court alone, or the Court may call in the aid of a jury for its advice, or it may refer the matter to a commission.

"In the case at bar the Court called in the jury for the purpose of aiding the conscience of the Court in the determination of this question, and although the jury failed to agree, yet the impression which the evidence produced during the trial upon the jury has been of assistance in determining the matter as to what conclusion should be arrived at by the Court upon this question involved.

"Although the evidence failed to satisfy me that the defendant was insane, yet it served to establish the proposition that he was not in a condition at the present time to be called upon to plead, as it was extremely doubtful whether he did understand the nature of the proceedings or was able to conduct his defence.

"The evidence in the case consisted very largely of expert testimony, and a peculiar feature of this testimony was a concurrence in the conclusion of the facts upon which those conclusions were based, actually existed.

"It was virtually conceded if this defendant was actually suffering from the symptoms he professed to describe, that he had melancholia, with a phase of insanity, and the points of difference arose in the conclusions of the expert evidence as to the variety of the symptoms described; those experts who believe the defendant to be sane being of the opinion that they were feigned, and those who testified to his insanity believing them to be genuine manifestations of disease.

"The force of some of the testimony, to the effect that the symptoms described were feigned, was in my mind considerably shaken in at least

one instance because of the reason which was assigned for the belief, that the symptoms complained of did not exist in reality, such reason not only addressing itself with any force to my judgment, but leading me to an entirely opposite conclusion.

"Under these circumstances, there being such doubt as to the existence of these symptoms upon which the question of the defendant's sanity or insanity depended, and it being certain that within a reasonable period of time, if this defendant was subjected to disinterested observation, any feigning of symptoms might easily be detected, and thus the question of his mental condition be absolutely set at rest, it seems to me that the proper course would be to send the defendant to some asylum under State supervision, and over which his friends or relatives could have no possible control, so that it might be determined by disinterested witnesses, who would be thrown into daily contact with the defendant, as to whether there was feigning of symptoms, or whether they actually existed.

"The determination of these facts will absolutely dispose of all questions in regard to his mental condition, and, therefore, my conclusion is that he should not be called upon to plead at the present time, but that, by order of the Court, he should be confined within an asylum under State supervision, until it can be definitely determined as to whether any of the symptoms which he claims now to exhibit actually exist or are feigned for the purpose of creating a belief in his diseased state of mind."

This action of Judge Judge VanBrunt I regard as most proper.

It is a step forward. It is after the German plan of holding the accused under observation.

It is surely in the interest of public justice.

The wide divergence in the views of medical experts has gone a great way toward shaking public confidence in the value of the *mere opinions* of medical witnesses.

The case presents remarkable features, and we are glad the Chief Justice has decided to secure a detection of any simulation if it existed, which I incline, from all the evidence, to doubt. Mr. Field has been sent to the State Hospital for Insane, at Buffalo, by the Court.

## MODERN JOURNALISM.

The New York *Recorder* is certainly the most ambitious of the newest New York journals, and has spared neither pains nor ready money to bring itself into the public recognition, which is the synonym of journalistic success.

In a recent Sunday issue it prints three articles on one page from three brainy, gifted men.

On the first column the writer was Joe Howard, one of the institutions of New York journalism, who, for a quarter of a century, has perhaps reflected more of his unique personality through the press than any man now on it. Too erratic and unconventional to be the editor of any one journal, he is a free lance on all questions, and his article is the subtle blow of a Damascus blade, pinking the Mayor, the gin-mills, Tammany Hall, Dr. Parkhurst, the streets, and Tom Brennan with thrusts such as only Joe Howard could make from a Republican standpoint.

The second paper is by that journalistic prodigy, who has well earned the hostility of the general press by the marvellous success which has attended his labors, first as the right-hand and editorial manager for the proprietor of the New York *World*, that built that great sheet into its present prominence, and, later, into rejuvenating and re-creating the *Advertiser* into its position at present as one of the great journals of the city of New York, sold at one penny, and conducted on much the same lines as the *Sun* had marked out, and upon which it has acquired its marvellous power and success. Col. Cockerill appears as a paragraphist in this Sunday number of the *Recorder*, and he talks entertainingly of Sullivan and Mitchell and the ethics of the prize ring. He dissects Mrs. D. W. Bishop's plan of missionary work among the police with the skill of an acute anatomist, talks learnedly and entertainingly of criminality, taking Vincent Sarsfield Cooke's theories as a text, calls careful attention to the loveliness of the Brooklyn women, gives full voice to the claim of Subway Commissioner Hess that the electric wires on Broadway are at last all buried in the subway, despite the hostility of the Western Union, the telephone, and electric-light companies, and emphasizes the test of Prof. William A. Hammond for

paresis as the correct pronunciation of "Truly Rural" in the Field trial, by giving the opinion of the alienists who differed with his other test as the ability to say without blundering and error, "National Intelligencer."

The last columns of this remarkable page is filled by that gifted and versatile writer upon the English press, William C. K. Wilde, known as Willie Wilde, whose successes on London journalism paved the way to his social conquests in our city.

Mr. Wilde is that Englishman who objects to calling a man a foreigner in New York because he speaks the same language as the natives, and bases his objections, with admirable naivete, upon the fact that it is never done in London.

He sees, with a fresh, observant eye, all strange around him, and enjoys the growl of his nationality on journalistic methods in America, falls in love with American speaking, and, with that excellent breeding due to his charming mother, vainly tries to conceal his poor opinion of the journalistic writing upon the New York journals, while he casts about in an amiable way for that friendly confidence which his good humor deserves and hopes for, I trust not in vain.

These writers fill a whole page of seven columns, except a small space in the centre of the middle three, at the bottom. In this space the enterprising editor has inserted a *fac simile* of a short poem, entitled "Courage," by Carlyle Harris, who has been tried and convicted by a jury of poisoning his wife, and is now in the Tombs awaiting the decision of the higher courts upon his appeal and motion for a new trial.

I copy it:

*COURAGE.*

Days yet to come are like an unturned stone,
Beneath lie worms or treasure, none may see.
Only the past and present are our own,
Man's noblest gifts are thought and memory.

Hope is at best an idle, baseless dream—
One drop of courage may to crimson turn a sea,
And tinge the waters of each puerile stream
That bathes the shores of this world's destiny.

—*Carlyle Harris.*

Who is the editor that thus exemplifies the progress of American journalism? His name is George W. Turner, the present editor and proprietor of the New York *Recorder*. He was for years the business manager of the New York *World* before he bought out and took the charge of the journal he now controls.

## PERSONAL.

Professor Kratler, of Insbruck, has been appointed to the chair of Forensic Medicine at the University at Gratz, Austria.

Sig. Ricardo L. Trumbull, of Santiago, has been elected to the Vice-Presidency of the Medico-Legal Society for Chili.

Dr. Hubbard W. Mitchell entertained the Executive Committee of the Medico-Legal Society at dinner on February 8, 1892, and Dr. Bettini de Moise on March 7th.

William H. McIntyre, Esq., has removed from the city of New York to Santa Fè, New Mexico. We wish him all success and commend him to the profession and the public.

# RECENT LEGAL DECISIONS.

## HABITUAL INTEMPERANCE.

The Supreme Court of Louisiana has defined habitual intemperance in Williams *vs.* Goss, 9 So. Rep., 750, as—

"The constant indulgence in such stimulants as wine, whiskey, or brandy, whereby intoxication is produced. Not their ordinary, but habitual use. The custom or habit of getting drunk. The habit should be actual and confirmed. It may be intermittent. It need not be continuous or even of every day occurrence."—*Criminal Law Magazine.*

# TOXICOLOGICAL.

## OPIUM POISONING.

Dr. Andrew H. Smith, of New York, cited a case before the New York Academy of Medicine recently coming under his personal observation, where one-eighth of a grain of sulphate of morphia reduced the respirations to thirteen per minute.

The statement was corroborated at the same session by the Chairman. Dr. A. A. Smith cited a case whose respirations were reduced by the drug to two per minute.

Taylor says the smallest fatal dose of solid opium known in an adult of 32 was two pills of one and a quarter grains each, equal to four grains of crude opium.

The smallest recorded dose of the tincture in an adult is two drachms. Dr. Stevenson says he has known less than a grain of opium in solution to destroy life in an aged person.

Medical jurists should use this drug with great caution upon infants and young children.

The *British Medical Journal*, 1875, ii., p. 570, cites a case where the sixteenth part of a grain of opium has destroyed the life of an infant.

Taylor says the usual medicinal dose for a healthy adult varies from half a grain to two grains, and cites five grains as a very full dose.

# JOURNALS AND BOOKS.

THE EVOLUTION OF LIFE. By Dr. Hubbard W. Mitchell. G. P. Putnams' Sons, N. Y., 1891.

This work is most interesting, and presents some features of the doctrine of evolution, as believed by Darwin and Wallace, in an entirely new light. We hope to be able to give it a more careful notice in a future number.

MANUAL OF MEDICAL JURISPRUDENCE. By Alfred Swayne Taylor. Twelfth London edition. Edited by J. & A. Churchill, London. (1891.)

This edition of the well-known standard work, by the famous author, edited by Dr. Thomas Stevenson, of London, is presented to the students of the science.

The preface announces that the whole work has undergone an entire revision, and that all the references in former editions have been verified.

The text has been in many important parts amended. Considerable new matter has been added, and in some parts of the volume the subjects have been entirely re-written.

We know no one in England more competent to a labor of this character upon the toxicological side than Dr. Thomas Stevenson, the learned and accomplished editor, who stands now in the front rank of his profession, and acts for the British government in many important cases as expert chemist and analyst.

THE BENCH AND BAR OF TEXAS. By James D. Lynch. Published by the author. (1885.)

Through the courtesy of Judge A. S. Walker, of Texas, I have seen a copy of this interesting work. It is an admirable history of the bar and judiciary of the State before and since annexation. It contains biographical sketches of the judges of the Supreme Court and Court of Appeals of the date of publication, and of the leading lawyers of the State. It has portraits in steel of eight of the eminent judges and citizens. It contains, also, the old Constitution of Texas, the State Declaration of Independence, the Constitution of the Republic, and Articles of Annexation.

I see Mr. Lynch is the author of "The Bench and Bar of Mississippi," which I should be glad to know how to obtain.

SKETCHES OF THE IRISH BAR. By Richard Laler Sheil, M. P., with memoir and notes by R. Shelton Mackenzie, D. C. L. Redfield Publication, N. Y. (1858.)

Mr. F. J. Parmenter, of the Troy bar, sent me recently this now rare book, and its perusal has been a source of great and unalloyed pleasure.

Shiel's sketches were originally published in the *New Monthly Magazine* in 1822, in the Cork *Mercantile Chronicle*, and two of them in 1831 in *Campbell's Metropolitau Magazine.*

Mr. Shiel entered Parliament from Milbourne Port in 1829, and he represented various Irish districts between 1831 and 1850, and died in April, 1851, at the age of 58 years.

Mackenzie first met him in 1828, and in 1844 asked and obtained permission to republish his sketches, which, however, he did not undertake until his visit to America in 1858.

The sketches, as written by Shiel, are published as he wrote them. The notes by Mackenzie are as annotations, and few readers will deny that the notes are as full of interest as the sketches.

The whole forms a complete view of the Irish courts, bar, and judiciary of great value to those who wish to study that side of the profession, and is enriched with anecdotes and incidents of great interest.

I think the book is out of print, as I have not been able to find a copy for sale.

ANNUAL OF THE UNIVERSAL SCIENCES, Charles E. Sajous, M. D., Editor. Five vols.—1891. F. A. Davis, Publisher, Phila., Pa.

This work is without doubt the most complete annual of the progress of the medical sciences now issued in the whole world. Each year it has issued five complete volumes, handsomely bound.

Dr. Sajous has a corps of 70 associate editors, and a large staff of collaborateurs.

The subjects are the whole realm of medicine and hygiene. We shall notice those relating to legal medicine, and such subjects as are germane.

The subject of legal medicine and toxicology is treated by Dr. Frank W. Draper, of Harvard. The subjects treated are "Legal Responsibility of Physicians," "Laparotomy and Legal Medicine," "Medical Expert Testimony," "Personal Identity, by Means of the Ear," (Boullaud's plan,) "The Identification of Human Blood," (citing Ewell,) "Pregnancy," "Abortion," "Infanticide." The cases cited of painless labor and abnormal duration of pregnancy are rare and very interesting. "Signs of Death and Post-Mortem Phenomena," (citing B. Ward Richardson and Froehlich.) Konig records interesting case of preservation of human bodies for 40 years submerged undisturbed in water. "Drowning, (appearance of the eyes after,)" "Sudden Death from Natural Causes," "Suicide, (Dr. Socquet's Statistics in France, 1827 to 1880), in old age," (Thivet,) "Magnan's case of a pin wound of the heart," "Electrical Executions," "Sociological Questions," "Criminal Insane," and, in Toxicology, "Arsenic," with cases, "Belladonna," "Fugu Poison," "Lead," "Morphia," "Phosphorus," "Hydrocyanic Acid," "Water Gas."

"Inebriety, Morphiaism, and Kindred Diseases," is edited by Dr. W. R. Birdsall, of New York; "Anæsthetics," by Drs. Barton and Wolff; "Embryology, Anomalies, and Monstrosities," by Sudduth; "Traumatic Neuroses," by Dr. Seguin; "Surgery of the Brain," by Prof. Packard.

THE CRIMINAL LAW MAGAZINE. Ardemas Stewart announces in his leading paper in the January number, 1892, entitled "Criminal Aspects

of the Preternatural," the following syllabus of the doctrine of responsibility of the insane charged with homicide: "It may be stated as the settled doctrine of the courts, that one who commits a crime under what he honestly believes to be a divine command or the compulsion of a supernatural being, is not responsible, on the ground that he is the victim of an insane delusion."

The same author questions the correctness of the decision in State *v.* Burnett, 21 N. E. Rep., 972, which holds that a witch doctor was not liable for obtaining money under false pretenses, who received compensation for allaying the witchcraft under which a family was suffering, on the ground that the representations charged were not such as a man of common understanding was justified in relying upon, but were expressions of opinions and not statements of existing facts, and cites the English cases of Regina *v.* Giles, 10 Cox, C. C., 44, under Stat. of Geo., 2 C. 5, §§ 3 and 4; Regina *v.* Lawrence, 36 L. T. N. S., 404; and Commonwealth *ex rel.* Gordon *v.* Keeper, 15 W. N. C., 282, as establishing the contrary, and what the writer claims to be the correct doctrine.

## BOOKS, JOURNALS, AND PAMPHLETS RECEIVED.

Granville P. Conn, M. D.—Transactions of the New Hampshire Medical Society. (1891.)

S. V. Clevinger, M. D.—Softening of the Brain. (1891.) Address to Chicago Academy of Medicine. (1890.)

Dr. Granville P. Conn.—Disposal of Waste and Garbage—Report of Committee to American Public Health Association. (1891.)

H. J. Brooks, M. D.—Eleventh Biennial Report Illinois N. Hosp. for Insane.

Hon. Walter Wyman.—Report Supervising Surgeon-General Marine Hospital Service, U. S. (1891.)

Brick Pomeroy.—Autobiography. (1891.)

# MAGAZINES.

THE CRIMINAL LAW MAGAZINE, Hon. G. A. Endlich, Editor, Fred D. Linn & Co., Publisher, Jersey City, N. J.

The November number contains an elaborate and scholarly article by the editor, entitled "The Doctrine of *Mens. Rea.*" It is the closing number of Vol. 6, and has an index of Vol. XIII., and a digest of recent criminal cases. Price, $5 per annum.

THE ASCLEPIAD, by B. Ward Richardson, M. D.

The November number completes the 8th volume of a journal which is wholly his work.

It is illustrated by a good copy of an old engraving, by Hopwood, of Dr. John Moore, the father of the brave general Sir John Moore, and contains theaddress of Dr. Richardson before the British Medico-Psychological Association, November, 1891, at Manchester, England.

REVUE DE L' HYPNOTISM, Dr. Edgar Berillon, Editor.

The December number, 1891, contains an original article by Dr. Semal, of Mons, Belgium, being extracts from a paper communicated to the Medico-Legal Society of Belgium on "The Expert in Alcoholism;" showing the true mission of the medical expert in cases of alcoholism; a paper by Dr. Berrillon on treatment of Locomoter Ataxia, treated by hypnotic suggestion; one on Facial Neuralgia treated by suggestion, by Dr. Lajoie. Dr. Lloyd Tucky, of London, writes of the treatment of inebriety by hypnotic suggestion, Dr. Dumonpalier of the employment of hypnotism in obstetrical cases, and Prof. Bernheim of its use in overcoming habits in cases of masturbation.

THE AMERICAN LAW REVIEW completes its 25th volume by the November-December number, 1891.

It has a portrait of ex-Judge John F. Dillon on its title page, and a sketch of his life, on the occasion of his election as President of the American Bar Association.

It contains an interesting paper by Hon. Richard H. Clark, on the history of the Georgia Code.

THE INTER-COLLEGIATE LAW JOURNAL. A new law journal, as the organ of the law schools.

Its editors are J. Francis Tucker, of the New York University Law School; Mark E. Harby, of the New York Law School; John Patterson, of Columbia Law School, and an associate from all the law schools of this country. It is illustrated, well edited, and contains original papers from distinguished jurists.

LIPPINCOTT'S for March, besides Capt. Charles King's story of "A Soldier's Secret," as its usual serial, has a repertoire of articles by Foxhall Keene, M. G. McLellan, and others, and is a creditable number.

THE COSMOPOLITAN for March gives as its frontispiece a reproduction of the charming picture of Leon Moran, entitled "St. Valentine's Morning."

Adam Badeau gives a readable article, and there is an attractive menu of literary tid-bits by attractive names.

John Brisben Walker is the editor.

THE ARENA for March gives the portraits of the Alliance members of Congress, at the head of which the celebrated Jerry Simpson is placed. Four are from Kansas, two from Nebraska, one from Georgia, and one from Minnesota.

They number nine solid names, but with them there are fifty odd votes of those who lean their way.

In a close contest they might control the balance of power in the national councils.

THE MICHIGAN LAW JOURNAL. Number 2 of this new legal journal appears in March, and is on our table, from the University of Michigan.

The leading article is by Hon. Grover Cleveland. Its distinguishing feature seems to be the publication of the recent decisions of the Supreme Court of Michigan.

Ralph Stone is the editor, with two managing, and four assistant editors, and the journal is a monthly.

AMERICAN JOURNAL OF INSANITY. The January number, 1892, contains a fine steel engraving of Dr. E. T. Wilkins, late superintendant Napa Insane Asylum, California.

Dr. Walter Channing contributes a paper on "Physical Education of Children;" Dr. Selden H. Talcott on "Dietetics in Treatment of Insanity;" Dr. G. Alder Blumer on "Music in Relation to the Mind;" and Drs. Edward Cowles and Henry M. Hurd contribute original articles.

THE AMERICAN JOURNAL OF PSYCHOLOGY, G. Stanley Hall, Editor. The December number, 1891, contains a contribution from Prof. Jastrow, of Wisconsin, on experimental psychology, "The Effect of Knowledge upon the Mind in Repetition," with interesting experiments, "Optical Illusion, with Experiment" of a rotating disc of two colors, with a rod moved up and down parallel to the disc—an interesting experiment—experiments upon measurement of time in mental operations and experiments as to mental processes. The number contains very important and interesting contributions, among which is one by Prof. H. H. Donaldson, of Clark University, upon the brain and sense organs of Laura Bridgman, the blind deaf mute.

# SKETCHES OF ALIENISTS AND MEDICAL MEN

OF THE MEDICO-LEGAL SOCIETY AND THE INTERNATIONAL CONGRESS OF MEDICAL JURISPRUDENCE.

## FRANCIS TAYLOR FULLER, M. D.

Francis Taylor Fuller, M. D., was born in a part of Granville, now Vance county, N. C., June 14th, 1835. At the age of eighteen he began the study of medicine under the direction of the late Dr. W. R. Hicks, of Oxford, and afterwards under Dr. Charles E. Johnson, of Raleigh, and graduated at the University of Pennsylvania in the spring of 1856.

The North Carolina Insane Asylum was opened for the reception of patients in February, 1856, with Dr. E. C. Fisher as Superintendent. The same year, Dr. Fuller was elected Assistant Physician, which office he has held continuously to the present time. In 1882 he was appointed a Director of the Western N. C. Insane Asylum and continued such until 1889, when he resigned. When a Superintendent was about to be elected for that Institution he would probably have been chosen without opposition, had he consented to the use of his name, but he declined, loth to sever his connection with the N. C. Insane Asylum, and remove himself from his relatives and friends in Raleigh, and believing that as a Director there and a physician in the former, he could best serve the insane of North Carolina. To him is due a large part of the credit for all that is good in both.

The *State Chronicle* of Raleigh, North Carolina, in speaking of Dr. Fuller and his long service in the State Institution there, says, "Dr. Fuller is modest and unpretending to a

fault. A man of broad views he has ever been in thorough sympathy with all progress in his profession. All societies and associations for its advancement he is ever ready to aid and encourage in any way.

He is of fine appearance, large brain, unerring judgment, strong determination, keen consientiousness and with a tender, sympathetic heart.

Truly all of his life has been devoted to the insane. Of him it can indeed he said, "The Asylum is father and mother, brother and sister, sweethart and wife." No service to the patients, no duty about the Institution has ever been too menial for him to perform if there were need.

During the late war and the desolation and poverty immediately following it, his struggles for food, clothing, medicines and attention for the inmates of the Asylum would make a story of courage, self-sacrifice and endurance that would do credit to his heart and hand. It is needless to say that with his thirty-three years experience and uninterrupted attention to his profession in all its details few men are his equal in it.

In his intercourse with the insane, kindness, gentleness, patience, and perseverance are his unvarying guides. To each of them his whole bearing is that of an adviser, a comforter, and a friend, and as such they look upon him."

Dr. Fuller comes very near to the description of the model Superintendent, as described by Dr. Ray.

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## S. V. CLEVENGER, M. D.

Dr. S. V. Clevenger, of Chicago, was born in 1843, in Florence, Italy, during his parents' temporary residence there. His father was the celebrated American sculptor whose busts of prominent authors and statesmen are in the Boston Athenæum and the New York Metropolitan Museum.

The doctor was formerly a civil engineer, and besides contributions to the Engineering Magazine, Van Nostrand, of New York, published his "Treatise on U. S. Surveying," which is still used in schools, and in the field by government surveyors.

In 1874 he left engineering and began medical practice under the tutelage of army surgeons, but his collateral scientific information had been acquired long before, beginning during the war, when he served in the U. S. Engineer Corps, at the close of the war holding the rank of First Lieutenant in an infantry regiment.

He graduated from the Chicago Medical College in 1879, and, besides several hundred contributions to medical and scientific journals, he has published the following books: "Comparative Physiology and Psychology," "Artistic Anatomy and the Sciences Useful to the Artist," and "Spinal Concussion," a medico-legal work of 400 pages, which has had quite an extensive sale.

Most of Dr. Clevenger's writings are in the "American Naturalist," the "Journal of Nervous and Mental Diseases," the "Alienist and Neurologist," and the "Journal of Neurology and Psychiatry." He is probably more universally known as the discoverer of the law regulating the distribution of valves in the veins, which he formulated in the words: "Only dorsad veins are valved."

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## WILLIS HENRY HAVILAND, M. D.

Willis Henry Haviland, M. D., of Butte, Motana, was born at Pawling, Dutchess County, N. Y., September 10, 1864. He was a son of Willis H. Haviland, a leading druggist at Glens Falls, N. Y. for twenty years. He attended the Glens Falls Academy, the Fort Edward Collegiate Institute, and later the Cornwall Heights School, at Cornwall-on-the-Hudson, N. Y. He was

a student of Dr. Stephen T. Birdsall, of Brooklyn, N. Y., and graduated at the New York Homœopathic Medical College and Hospital in April, 1888, with honors. He made a thorough study of the hospitals of London, Paris, and on the continent. He removed to Minneapolis, Minn., June, 1888, and entered into active practice. He was Secretary in 1889, Vice-President in 1890, and member of Medical and Surgical Staff Minneapolis Homœopathic Hospital in 1888–90. Assistant Physician Chicago Avenue Church Babies' Home, Minneapolis, Minn. Was appointed by Board of Regents of State University of Minnesota to Lecturership on Mental and Nervous Diseases in August, 1889, and to a Chair as Professor in the Homœopathic College of Medicine and Surgery in May, 1890, and held clinics at the College Dispensary. His health failing, he removed to Butte, Montana, September 1, 1890, and entered into an active and successful practice. He is physician and medical examiner for three societies and four life insurance companies. He is a member of Medico-Legal Society of New York, Inter-National Medico-Legal Congress, American Institute of Homœopathy, Minnesota State Institute of Homœopathy, Academy of Homœopatic Medicine of St. Paul and Minneapolis, Oro–Plata Club, of Butte, and others.

Dr. Haviland is a careful student, has a keen analytical mind, and keeps pace with the advance of scientific thought.

He has a very brilliant career before him, and, although a young man, has the confidence of the profession in Minnesota, where he has lived, and in his new home in Montana.

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## THEODORE DILLER, M. D.

Dr. Diller was born August 25, 1863, in Lancaster, Pennsylvania. He is of Huguenot descent on father's side; of "Pennsylvania Dutch" on mother's side. His paternal ancestor was, with many other French protestants, driven from

Alsace to Holland. From thence he emigrated to England, where he married; from there he came to the United States and settled in Lancaster County, Pennsylvania, about 1740.

The subject of this sketch was educated in Lancaster City in private and public schools until the age of seventeen years; then employed as clerk in a wholesale establishment in Lancaster for two years; again took up studies under a private instructor. Began study of medicine early in 1883 under Dr. M. L. Herr, a distinguished physician of Lancaster. In the fall of that year he entered the University of Pennsylvania, where he graduated with honor in 1886. After a competitive examination, he was appointed resident physician at the Great Philadelphia Hospital, with its 1,800 patients—600 of whom are insane. Here he first acquired love of study for insanity, to which he gave especial attention. Had advantage of contact with Drs. C. K. Mills, James Tyson, H. C. Wood, William Osler, of the eminent specialists of Philadelphia, and others. Soon after expiration of term of service was for short time connected with New York City Asylum for the Insane, and was subsequently appointed Assistant-Physician State Hospital for Insane at Danville, Pa. Resigned in spring of 1890, and accepted position of Assistant to Chair of Psychiatry and Neurology Marion–Sims College of Medicine of St. Louis—Chair occupied by Dr. C. H. Hughes. At same time doing work on the Alienist and Neurologist for Dr. Hughes, and assisting him in practice. For last eighteen months has been located in Pittsburgh.

He is a member of American Medical Association, one of the founders of Philadelphia Hospital Medical Society, member Medico-Legal Society, and Fellow Academy Medicine of Pittsburg.

Dr. Diller has written various papers on medical topics, and has been a contributor to American Journal Medical

Science, Medical Record, Journal Nervous Mental Diseases, Medical News, Cincinnati Lancet-Clinic, Medico-Legal Journal, Philadelphia Medical and Surgical Reporter, Pittsburgh Medical Review, Theraptutic Gazette, Alienist and Neurologist, Journal of American Medical Association, the most important of which is the recent discussion initiated by him on the topic, "Mechanical Restraint in the Care of the Insane."

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## O. WELLINGTON ARCHIBALD, M. D.

O. Wellington Archibald was born at Stillwater, Nova Scotia, November 26, 1850. Attended the ordinary public school and entered the Provincial Model and Normal College at Truro, Novia Scotia. Graduated from that institution in 1867. Taught school for two years in the Province, during which time he privately pursued his medical studies. On Decembér 11, 1869, at Fairfield, Iowa, he entered the office of Dr. R. J. Mohr, with whom he continued his medical studies as preceptor. Graduated at the College of Physicians and Surgeons, Keokuk, Iowa, in 1871. The same spring he accepted appointment as Assistant Physician in the Iowa Hospital for Insane at Mt. Pleasant, which position he filled for a little over a year, when he took an *ad eundem* degree from the Missouri Medical College, St. Louis, Missouri, in 1873. He then located at Glenwood, Iowa, and was in general practice until April, 1875, when he accepted an appointment of Acting Assistant Surgeon U. S. A., and was Post Surgeon at Fort Camp Baker, Montana, until November of the same year, when he was ordered to New York, where he awaited orders for several months, during which time he attended the Medical Colleges of that city. In July, 1876, he resigned his position in the army and accepted an appointment as Superintendent of the Iowa Institute for Feeble Minded Children, which in-

stitution he organized and remained with until July, 1882, at which time he again accepted an appointment as Acting Assistant Surgeon, U. S. A., serving as Post Surgeon at Forts Sisseton, Abraham Lincoln, and Keogh, in the Department of Dakota.

An act having passed the Dakota Legislature establishing the North Dakota Hospital for Insane at Jamestown, North Dakota, in the winter of 1883, he accepted the appointment as Superintendent, assisting in the location of grounds, formulating plans, etc., but retaining his position in the army until April, 1885, when the institution was opened for the admission of patients and organized under his direction as Medical Superintendent.

Dr. Archibald has seen the institution grow to accommodate more than three hundred inmates.

It is built on the detached or college plan, with separate wards, after approved modern methods.

He has grown up with it. Dr. Archibald is a man of large influence in the State, and commands the respect of the profession among all who know him.

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## GERSHOM H. HILL, M. D.

Gershom H. Hill was born in Iowa in 1846. His father and mother were natives of Maine. His grandfather was a Member of Congress. His father was a graduate of Bowdoin College and of Andover Theological Seminary. He took the degree of A. B. from Iowa College in 1871, and has since received the degree of A. M. He graduated from Rush Medical College in 1874.

After a general practice of one year in Moline, Ill., he was elected to the office of First Assistant Physician in the Iowa Hospital for the Insane at Independence.

In 1881 he was promoted to the Superintendency of this

institution, which position he still occupies. In seventeen years the population has increased from two hundred to eight hundred patients.

Doctor Hill has been the President of the Buchanan County (Iowa) Medical Society for more than ten years, and last year was President of the Cedar Valley Medical Association (Iowa). He is also a member of the Fayette County Medical Society, The Iowa State Medical Society, The American Medical Association, the American Academy of Medicine, Association of Superintendents of American Institutions for the Insane, and of the Medico-Legal Society of New York.

He is a trustee of his Alma Mater (Iowa College) and lecturer on insanity in the medical department of the State University of Iowa.

He has read numerous papers before medical societies, some of which have been published in the proceedings and elsewhere.

In January, 1879, he was married to Louisa B. Ford, of Lynn, Massachusetts. He has but one child, a daughter, five years old.

Dr. Hill occupies an honorable and prominent position among the alienists of this country, and stands very prominent, and deservedly so, in the State of Iowa.

He has had a large experience in the care and treatment of the insane, and is fitted for any position in that domain.

He is a clear, analytical writer, and a physician of great influence in his State.

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## H. C. DUNAVANT, M. D.

Dr. H. C. Dunavant was born in Lauderdale county, West Tennessee.

He entered the Confederate service at the beginning of

the war of the Rebellion, when not sixteen years of age, and served till the close in the 1st Confederate Cavalry.

Returning, he found his father dead, and, without means or influence, he mastered all obstacles, educated himself, and graduated with high honor in his class at the University of Nashville in February, 1873.

He commenced practice in his native county, where he remained one year, when he removed to Arkansas, where he has since practiced his profession (except a short period at St. Louis, Mo.), and since 1875 at Osceola, Arkansas.

He was President of the Arkansas State Medical Society in 1890, member of the American Public Health Association, the Medico-Legal Society, and of various medical societies and bodies in his own State.

Dr. Dunavant occupies a prominent position in the medical profession of the Southwest, and is just entering upon a professional career of great usefulness and distinction.

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## JAMES THOMAS STEEVES, M. D.

James Thomas Steeves, M. D., Superintendent of the Provincial Lunatic Asylum, St. John, New Brunswick, was born at Hillsborough, Albert county, N. B., on the 25th of January, 1828. He is a brother of the late Hon. W. H. Steeves, Senator, one of the delegates or founders of Canadian Confederation, and is of German ancestry. His great-grandfather was born in Osnaburgh, whence he removed to Philadelphia, and his grandfather, the Rev. Henry Steeves, a sturdy, aggressive Baptist pioneer, removed thence to Albert county, N. B., about the beginning of the present century. His literary education was obtained at the Hillsborough Grammar School, the Sackville Academy, and the Baptist Seminary at Fredericton. After the completion of his literary course, he entered upon the study of medicine at the Pennsylvania Medical College, attracted by the famous

surgeon, Valentine Mott. The following year he matriculated at the University of New York, and graduated in the class of 1853, receiving the faculty's certificate of honor for proficiency, and for having pursued a more extended course than that required by the college curriculum.

In June, 1854, the doctor established himself in the town of Portland, St. John, N. B., and entered upon the practice of his profession. After the lapse of a few weeks Asiatic cholera made its appearance there in all its terribleness, spreading dismay and death on every hand. During the prevalence of this fearful scourge, extending over a period of upwards of four months, Dr. Steeves, by his unswerving fidelity to his professional duties under every circumstance, and his good measure of success, fairly placed himself among the leading physicians of New Brunswick. In 1864 he removed to the city of St. John, and erected the fine block of four brick and stone buildings situated on the corner of Wellington Row and Union streets, which escaped the great fire of 1877, and still stand as a monument to his success and enterprise, and where he resided till 1875. On the opening of the General Public Hospital in 1864 the doctor was appointed upon the staff of visiting surgeons, and was the last of the original staff retiring. He established a reputation for himself in operative surgery, having performed nearly all the capital operations repeatedly with success, and in obstetrics he was an acknowledged expert. During the twenty years that he was in general practice he attended nearly four thousand cases.

When the late Dr. J. Waddell was retiring from the Superintendency of the Provincial Lunatic Asylum, Dr. Steeves was recommended by his professional brethren, almost as a body, as a suitable successor for the position. Under the management of Dr. Waddell the asylum for the insane had attained a high position for successful work, and

since, under the present administration, it has not lost a whit, but has kept fully abreast with the various modern improvements incident to asylum treatment everywhere, including the reduction of restraint in any and every form to a minimum. Dr. Steeves is a strong advocate for segregation, pavilion accommodation, and employment for the insane. By means of his advocacy with his pen and voice he has induced the government of New Brunswick to purchase a large farm near the hospital, and to erect thereon a group of pavilions for the care and employment of a suitable number and class of the most healthy, indigent, and pauper insane. The establishment is in full working condition, and is regarded as a complete success, in that it is far better than the old hospital system for this class of patients, giving them more freedom and out-door work, and that it is far more economical, both in buildings and maintenance, and further, that it stands as an opponent and preventive to the pernicious Poor House system.

Dr. Steeves was elected a member of the first medical council of New Brunswick on the introduction of the English Medical Registration Act in 1860. He has occupied the position of Vice-President of the Canada Medical Association; he is an honorary member of the American Medical Association; he was elected unanimously first President of the New Brunswick Medical Society, under the New Brunswick Medical Act of 1880; and is Past President of the New Brunswick Medical Council. Dr. Steeves has contributed to medical literature to a limited extent.

# THE SUPREME COURT OF NEW JERSEY.

BY FRANCIS BAZLEY LEE, TRENTON, N. J.

The year 1702 was a critical period in the history of what is now the State of New Jersey. The opening of the XVIII. century found Queen Anne upon the English throne, holding in her hands the "Instruments of Surrender" by which the colonial proprietors of East and West Jersey yielded their governmental franchises. The government thus passed from Burlington and Amboy to Westminster, while the Jerseys, hitherto separate, were to be united under one Governor, who should likewise be Executive of New York.

He who came to re-organize the colonies was Edward Hyde, Lord Cornbury, the profligate, brilliant, obstinate cousin of the Queen. One of his first official acts was the establishment of a court. By this ordinance there was erected for the first time on the soil of New Jersey a tribunal having general jurisdiction with well-defined attributes and powers. By and with the advice and consent of his Council he published an ordinance (1704) creating a "Supream Courte" and selected a Chief Justice, to whom an associate or "Second Justice" was added at a later period. Privileges and fees were authorized, and the scope of its civil and criminal jurisdiction laid down. Though Cornbury's administration has passed into history as one vitiated by corruption and debauchery, nevertheless, this ordinance is marked by qualities which show him to have had the mind of a statesman, or, at least, to have had about him those who were in touch with the times and saw far

into the future. So true is this that the Supreme Court of New Jersey remains to-day, in organization, much as it was nearly two centuries ago.

It must not be understood that the Supreme Court of 1704 was called into being by the "Ordinance." Indeed, Cornbury was prohibited from creating any new courts. As a matter of fact this supreme tribunal was more like some bit of burnished gold, which had been fashioned from the rough metal hid in the quartz of the unorganized but sturdy colonial life. The elements of the court existed in the days of East and West Jersey and have been developed by Whitehead, the historian. Colonial life, it goes without saying, needed no comprehensive judicial system, and the simple institution of a court, either by charter or by the exigencies of a new population, always gave the judiciary the broadest jurisdiction.

In East Jersey, a Dutch court existed for a short time before the English conquest of 1664, and continued to sit until a much later period. The "Fundamental Agreements" provided for two courts each year in Newark, whilst Woodbridge had a tribunal in 1668. About the same time Governor Nichols, of New York, empowered a court for Monmouth county, and, as late as 1670, Governor Cartaret called upon the courts of Woodbridge and Bergen to take cognizance of the quit-rent dispute. In general, it may be said that judicial power lay in the executive.

The first Assembly of East New Jersey met in 1675, at Newark, and erected courts of three kinds:

1. Court for the trial of small causes.

2. County Sessions, with civil and criminal jurisdiction.

3. A Bench of Appeal, with a probable Equity Jurisdiction, with further appeal to Governor and Council, and final appeal to the King.

When the four counties were created in East Jersey, the

county courts met quarterly, and the Bench of Appeal assumed the complexion of a Court of Common Rights.

There has been little preserved of the details of proceedings, but English precedents governed all matters, as the choosing of sheriffs, grand juries, and the like. Judgements passed in accordance with the laws of the colony were quite severe, and capital offenses were numerous. Quite true is it that the court history of East Jersey is but a repetition of Connecticut.

West Jersey's legal history is the record of the early Quaker settlements of Salem, Burlington, and Cape May. The commissioners appointed for the colony met in March, 1681, and had legal jurisdiction until 1682, when a general court, with widest jurisdiction, extending from hog-branding to treason, met at Burlington. This court was all the law and equity the province knew. Constabularies were appointed, and occasional police powers insisted upon. The judgments of the court were marked by mercy, and only once was sentence of death pronounced, although no record is known of its having been carried into effect. Whipping at "ye carte's tayle" was the general method of punishment, and this, with the pillory for slander, and fines and slight imprisonments, composed the punishments. Not over four indictments for murder are recorded, and these are nearly all in reference to bastardy cases.

A court for the trial of small causes was established in Cape May in 1693, and in the same year a Court of Appeals was instituted at Burlington. At the close of the century the Oyer and Terminer became a part of West Jersey's judicial system.

From these various local and almost independent sources Cornbury gathered the volume of waters into the ordinance of 1704, whence has since flowed that pure stream, making

the homely phrase, "Jersey justice," famous wherever the English language is spoken.

It has frequently been remarked that the judiciary of New Jersey are to be distinguished from nearly every other state in the manner of their selection. Under the Crown the judges were all appointed by the various governors, and, with the exception of Justices of the Peace, the same is true to-day.

In the administration of justice New Jersey probably retains more of the old English precedents than any other commonwealth in the Republic. Instead of sitting at Perth Amboy and Burlington, the respective capitals of East and West Jersey, the Supreme Court now convenes at the State Capitol at Trenton. *In banc* the court is virtually appellate from all the lower courts. The circuits have been increased from one to nine, and are holden three times a year in each county.

These circuits of the Supreme Court, which are the equivalent of the English commissions of *assize* and *nisi prius*, must not be confounded with the Circuit Courts, which are held at the same time, and presided over by the same justice. for while the Circuit Courts possess civil jurisdiction over the same personal actions as those triable before the circuits of the Supreme Court, the practice before and after the trial is radically different. The Circuit Court consists of the Justice of the Supreme Court who holds the circuit of that court in the county; hence all matters of practice and pleading are cognizable at the county seat before the the justice there sitting as the Circuit Court; whereas the issues triable at the circuits of the Supreme Court are framed by pleadings filed at the State capital, and all motions and rules are heard by the Supreme Court there sitting *in banc.* In fine, the justice sits at circuit not as a court, but as a commissioner to try the issues sent down to the county of

the venue by the transcript of the Supreme Court. This transcript, upon which the proceedings at trial are endorsed as a *postea* and signed by the justice, is carried up to the Supreme Court at its next term, and judgment entered thereupon. In both jurisdictions and procedure the Supreme Court of New Jersey is a counterpart of the Court of King's Bench as it existed prior to the various Procedure Acts, and, like its prototype, is the fountain of all common-law power in both civil and criminal matters. By its prerogative writs of *certiorari*, *quo warranto*, and *mandamus* it draws to itself for review the proceedings of all inferior and special tribunals. From the final judgment of the Supreme Court a writ of error goes to "The Court of Errors and Appeals in the last resort in all causes." This constitutional court is modeled upon the House of Lords, in-so-far as the presence of a lay element is concerned. It is composed of the Justices of the Supreme Court, the Chancellor, and six Judges specially appointed, who may be, and generally are, laymen, making sixteen in all, a formidable bench, of which it was once said by a disappointed suitor that it "was too big for a jury and not big enough for a mass meeting." To this court an appeal may be taken likewise from all decrees of the Court of Chancery, for, almost alone among the States, New Jersey has retained a separate Court of Equity, which by the Constitution consists of the Chancellor. From the earliest transplanting of this court down to the year 1844, the Governor of the Colony or State was, by virtue of his office, Chancellor; but, by the Constitution of that year, the judicial office was separated from the executive, and so great has been the increase of business in this tribunal that four Vice-Chancellors now sit constantly, while a large number of Advisory Masters also aid in clearing its dockets.

In practice there are a few noteworthy peculiarities of the New Jersey Supreme Court which are quite noteworthy.

In an appeal from a judge at Circuit to the Supreme Court or directly to the Court of Errors, the appeal is known as a "Writ of Error," appeal being limited to chancery terminology.

The member of the Supreme Court sits *in banc* upon rules for a new trial in review of his action as Circuit, exactly the same as in the practice at King's Bench. In the Court of Errors the Constitution prohibits any judge to sit who has given a judicial opinion with respect to any error complained of. Moreover, the Circuit Court has no jurisdiction of a criminal nature.

The Supreme Court of New Jersey, which has both original and appellate jurisdiction, has stated "terms" in the months of February, June, and November, in the capitol at Trenton. The Circuits are held in the county seats at stated times during the year, each judge having a circuit of one or more counties. The judges, who hold office under a seven year tenure, receive $9,000 per annum, except the Chief Justice, who receives $10,000, each being appointed by the Governor, with the advice and consent of the Senate.

The *personnel* of the Supreme Court of New Jersey is at present as follows:

| | *Appointed.* |
|---|---|
| Chief Justice Mercer Beasley, | 1864. |
| David A. Depue, | 1866. |
| Bennett VanSyckel, | 1869. |
| Edward W. Scudder, | 1869. |
| Manning W. Knapp, | 1875. |
| Jonathan Dixon, | 1875. |
| Alfred Reed, | 1875. |
| William J. Magie, | 1880. |
| Charles Garrison, | 1888. |
| George T. Werts, | 1892. |

*CHIEF JUSTICES.*

*Under the Colonial Government.*

From the "Rules of the Supreme Court," 1885, by the Hon. Garret D. W. Vroom, Trenton.

| | *Appointed.* |
|---|---|
| Roger Mompesson, | October 2, 1704. |
| Thomas Gordon, | April 28, 1709. |

| | |
|---|---|
| Roger Mompesson, | August 8, 1709. |
| David Jamison, | February 14, 1710. |
| William Trent, | November 23, 1723. |
| Robert Lettis Hooper, | March 30, 1725. |
| Thomas Farmar, | March Term, 1728. |
| Robert Lettis Hooper, | September 1, 1729. |
| Robert Hunter Morris, | March 13, 1738. |
| *William Aynsley, | March Term, 1758. |
| Robert Hunter Morris, | March Term, 1760. |
| Charles Read, | February 20, 1764. |
| Frederick Smyth, | October 17, 1764. |

*Under the Constitution of 1776. Elected by the Joint Meeting.*

| | |
|---|---|
| Richard Stockton, (declined,) | August 31, 1776. |
| †John DeHart, | September 4, 1776. |
| Robert Morris, | February 5, 1777. |
| David Brearley, | June 10, 1778. |
| James Kinsey, | November 20, 1789. |
| Andrew Kirkpatrick, | November 3, 1803. |
| Charles Ewing, | October 29, 1824. |
| Joseph C. Hornblower, | November 1, 1832. |

*Under the Constitution of 1844. Appointed by the Governor, with the advice and consent of the Senate.*

| | |
|---|---|
| Henry W. Green, | November 2, 1846. |
| Peter D. Vroom, (declined,) | February 17, 1853. |
| Alexander Wurts, (declined,) | March 4, 1853. |
| Henry W. Green, | November 2, 1853. |
| Edward W. Whelpley, | January 31, 1861. |
| Mercer Beasley, | March 8, 1864. |

## *ASSOCIATE JUSTICES.*

*Under the Colonial Government.*

| | *Appointed.* |
|---|---|
| William Pinhorne, | October 2, 1704. |
| William Sandford, | November 6, 1705. |
| Andrew Bowne, | November 6, 1705. |
| Daniel Coxe, | November 5, 1706. |
| Thomas Revel, | June 7, 1708. |
| Daniel Leeds, | June 7, 1708. |
| Peter Sonmans, | April 5, 1710. |

*After the death of Chief Justice Aynsley, one Nathaniel Jones presented to the Supreme Court a commission appointing him Chief Justice, but as Robert Hunter Morris held a commission of Chief Justice, during good behaviour, and no legal cause being shown to vacate that commission, the Court refused to swear Mr. Jones. (See Minutes Sup. Ct., March T., 1760, p. 237. Field's Prov. Courts of N. J., p. 151.)

†John DeHart accepted September 16, 1776, (see his letter N. J. Rev. Corresp., p. 11); in February, 1777, he declined, (see Minutes Joint Meeting, 1777).

| | |
|---|---|
| Hugh Huddy, | April 5, 1710. |
| Lewis Morris, | 1711. |
| Thomas Farmar, | October 22, 1711. |
| John Reading, | October 22, 1711. |
| Robert Wheeler, | August 17, 1713. |
| Peter Bard, | 1721. |
| Daniel Coxe, | August 1, 1734. |
| John Hamilton, | March 20, 1736. |
| Joseph Bonnell, | April 19, 1739. |
| John Allen, | November 6, 1736. |
| Samuel Nevill, | March Term, 1749. |
| Charles Read, | August 17, 1753. |
| Richard Saltar, | May 15, 1754. |
| John Berrien, | February 20, 1764. |
| Charles Read, | November 6, 1764. |
| David Ogden, | May 18, 1772. |
| Richard Stockton, | February 28, 1774. |

*Under the State Constitution of 1776. Elected by the Joint Meeting.*

| | |
|---|---|
| Samuel Tucker, | September 4, 1776–77. |
| Francis Hopkinson, (declined,) | September 4, 1776. |
| Isaac Smith, | Feb'y 15, 1777–1804. |
| John Cleves Symmes, | Feb'y 15, 1777–1788. |
| John Chetwood, | September 4, 1778–97. |
| Andrew Kirkpatrick, | Nov. 4, 1797–1804. |
| Elisha Boudinot, | March 9, 1798–1804. |
| William S. Pennington, | February 28, 1804–13. |
| William Rossell, | November 1, 1804–26. |
| Mahlon Dickerson, | November 3, 1813–15. |
| Samuel L. Southard, | October 31, 1815–21. |
| Gabriel H. Ford, | November 15, 1820–41. |
| George K. Drake, | December 27, 1826–34. |
| Thomas C. Ryerson, | January 24, 1834–38. |
| John Moore White, | February 28, 1838–45. |
| William L. Dayton, | February 28, 1838–41. |
| James S. Nevius, | November 15, 1838–52. |
| Daniel Elmer, | March 9, 1841–45. |
| Ira C. Whitehead, | November 3, 1841–48. |

*Under the Constitution of 1844. By the Governor, with the advice and consent of the Senate.*

| | |
|---|---|
| Thomas P. Carpenter, | February 5, 1845–52. |
| Joseph F. Randolph, | February 27, 1845–52. |
| Elias B. D. Ogden, | November 3, 1848–65. |
| Lucius Q. C. Elmer, | February 5, 1852–59. |
| Stacy G. Potts, | February 28, 1852–59. |
| Daniel Haines, | November 15, 1852–66. |
| Peter Vredenburgh, | March 27, 1855–69. |
| Martin Ryerson, | March 27, 1855–58. |

| | |
|---|---|
| Edward W. Whelpley, | September 9, 1858–61. |
| William S. Clawson, | February 23, 1859–61. |
| John VanDyke, | February 28, 1859–66. |
| George H. Brown, | February 28, 1861–65. |
| Lucius Q. C. Elmer, | August 22, 1861–69. |
| Joseph D. Bedle, | March 28, 1865–75. |
| Vancleve Dalrimple, | February 16, 1866–80. |
| George S. Woodhull, | February 28, 1866–80. |
| David A. Depue, | November 16, 1866. |
| Bennet VanSyckel, | March 15, 1869. |
| Edward W. Scudder, | March 23, 1869. |
| Manning M. Knapp, | January 25, 1875–92. |
| Jonathan Dixon, | April 8, 1875. |
| Alfred Reed, | April 8, 1875. |
| William J. Magie, | February 28, 1880. |
| Joel Parker, | March 11, 1880. |
| George T. Werts, | February 5, 1892. |

*LAW REPORTERS.*

| | |
|---|---|
| William S. Pennington, | March 12, 1806. |
| Mahlon Dickerson, | November 3, 1813. |
| Samuel L. Southard, | February 9, 1814. |
| Joseph C. Hornblower, | November 6, 1819. |
| William Halsted, Jr., | November 23, 1821. |
| James S. Green, | February 15, 1832. |
| Josiah Harrison, | October 27, 1837. |
| Robert D. Spencer, | October 28, 1842. |
| Abraham O. Zabriskie, | January 10, 1848. |
| Andrew Dutcher, | February Term, 1856. |
| John P. Vroom, | November Term, 1864. |
| Peter D. Vroom, | June 3, 1865. |
| Garret D. W. Vroom, | November 27, 1873. |

*CLERKS OF SUPREME COURT SINCE THE REVOLUTION.*

| | |
|---|---|
| Jonathan D. Sergeant, (declined,) | September 4, 1776. |
| Bowes Reed, | September 6, 1776. |
| William C. Houston, | September 28, 1781. |
| Richard Howell, | September 4, 1788. |
| Jonathan Rhea, | June 5, 1793. |
| William Hyer, | November 19, 1807. |
| Garret D. Wall, | November 5, 1812. |
| Zachariah Rossell, | November 6, 1817. |
| Eli Morris, | July 26, 1842. |
| James Wilson, | October 28, 1842. |
| William M. Force, | November 2, 1852. |
| Charles P. Smith, | November 2, 1857. |
| Benjamin F. Lee, | November 2, 1872. |

*SERGEANTS, COUNSELLORS AND ATTORNEYS.*

The first appointments of Sergeants-at-law were made by rule of the Supreme Court of the Province of New Jersey, at the May term, 1755, and later, in 1763, owing to some irregularities, it was ordered "that no person for the future shall practice as a Sergeant in this court but those that are recommended by the Judges to the Governor for the time being, and duly called up by writ and sworn agreeably to the practice in England."

It was found in the May term, 1764, that this rule was of little force, being "prejudicial to the inhabitants of this Province who have occasion to have recovery suffered for docking off of estates tail and other purposes; inasmuch as His Majesty's Governors of this Province have never called up any gentlemen of the bar by writ to the degree of Sergeant, according to the custom and practice in England, and for that the practice hitherto in this Province has been for this court only to nominate and appoint such persons as the court have thought fit and proper for that service by a rule of court without writ. The court now taking the same into consideration are of opinion that the said rule of court made and entered in the term of March aforesaid be vacated and set aside, and the said rule, and every part of it, is hereby accordingly vacated, made void and set aside."

The number of Sergeants was subsequently fixed at twelve. The office was of importance, as only Seageants could pass a common recovery in the Supreme Court, and for a time the examination for admission to the bar were conducted exclusively by the Sergeants. In 1839 the degree of Sergeant-at-law was abolished.

Prior to April term, 1767, the admissions to practice as an Attorney and Counsellor-at-law were undistinguished; by a rule adopted at this term this practice was held to be "inconvenient, and the contrary practice may be of great util-

ity, and put the profession of the law upon a more respectable footing;" it was therefore ordered that thereafter the recommendations as an Attorney and Counsellor be distinct, and that no person be admitted as an Attorney and Counsellor until he shall have practiced as an Attorney for three years at least, and submit to such examination in open court touching his ability and knowledge in the law as the court shall think proper. Attempts have been made as late as this present year (1892) to annul this rule, and place Attorneys and Counsellors upon the same footing as in Pennsylvania. The same line of objection used in any proposed change from our common law practice has always defeated the object of the innovators.

# CHIEF JUSTICE MERCER BEASLEY.

SUPREME COURT OF NEW JERSEY.

It was in 1815, in the county of Mercer, which has since been his home, that Chief Justice Mercer Beasley was born. His father was the Reverend Frederick Beasley, Provost of the University of Pennsylvania, while his mother was Maria Williamson, niece of ex-Gov. Isaac Williamson.

Entering the Junior class at Princeton, he remained a year, and then came to Trenton, studying law under the famous Samuel L. Southard, and later in ex-Chancellor Williamson's office in Elizabeth. Admitted to the bar in 1833, the Chief Justice soon became recognized as the foremost special pleader in the State, and entered upon a career which has gained for him an international reputation. Politics have had but little attraction for him, his main office having been that of President of Trenton's Common Council in 1850. In 1864 Governor Joel Parker appointed Chief Justice Beasley to his present position, which he has since held continuously.

Chief Justice Beasley inherited and has since largely cultivated a mind peculiarly adapted to the reception of the law. In his youth he delved deeply into the underlying principles, and where other men struggle with the intricacies of a case for decision, the Chief Justice immediately brings to bear the great underlying truths of the science, giving his decisions a lucidity which has won for him high enconiums, not only in America, but in Europe. For years a resident of Trenton, his now venerable figure has become a familiar sight in the capital, and toward him a respect is paid, even by the lowest layman, which, in this busy modern life, is the highest compliment he can receive. Socially his culture and eminent attainments have made his home a center for leading men of the State.

HON. MERCER BEASLEY,
Chief Justice Supreme Court of New Jersey.

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The President was empowered and directed by the Congress to appoint additional Vice-Presidents for the various States, Territories, Provinces and Countries, which will be done in the future.

Members of the Congress receiving this circular, who have not sent their enrolling fee, will please do so, and circulate this among those who take an interest in the Science.

Your early response is requested to either of the undersigned.

MORITZ ELLINGER,
Surrogate's Office,
New York City.

CLARK BELL,
*President,*
57 Broadway, N. Y.

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Page 122, for Friedreich's Ataxia in Legal Medicine read "A Case of Traumatic Insanity."
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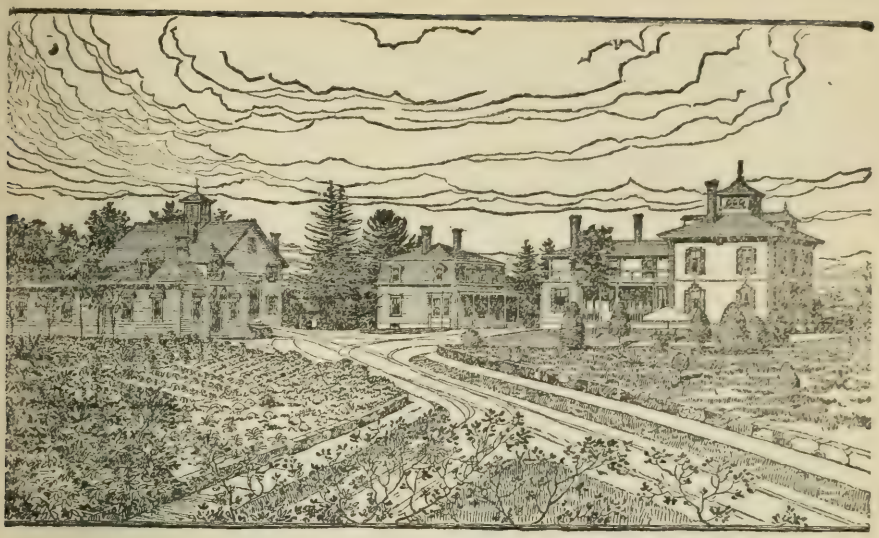

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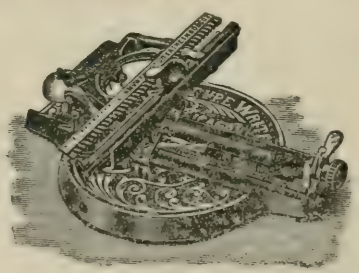

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